

Effect of Military Personnel Savings on Overall Savings

BRAC ID	Report Page Scenario	One Time Costs (\$M)	Payback (Years)	6 Year Net (\$K)	20-Year Net			Revised NPV (No MilPers)
					Present Value (\$K)	MilPers NPV (\$K)	MilPers % of Total NPV	
165	Ind - 19 Fleet Readiness Centers **(Roll up)	\$298.10	1	(1,528,160)	(4,724,200)	(569,779)	12.06%	(4,154,421)
177	S&S - 13 Supply, Storage, and Distribution Management Reconfiguration	\$192.70	1	(1,047,330)	(2,925,800)	(31,523)	1.08%	(2,894,277)
79	Air Force - 6 Eielson Air Force Base, AK, Moody Air Force Base, GA, and Shaw Airforce Base, SC	\$141.40	Immediate	(594,030)	(2,780,600)	(2,174,944)	78.22%	(605,656)
100	Air Force - 32 Cannon Air Force Base, NM	\$90.10	Immediate	(815,560)	(2,706,800)	(2,279,745)	84.22%	(427,055)
103	Air Force - 35 Pope Air Force Base, NC, Pittsburgh International Airport Air Reserve Station, PA, Yeager Air Guard Station, WV	\$218.15	Immediate	(652,520)	(2,515,351)	(2,136,382)	84.93%	(378,969)
146	H&SA - 41 Joint Basing	\$50.60	1	(601,320)	(2,342,500)	(1,402,623)	59.88%	(939,877)
104	Air Force - 37 Grand Forks Air Force Base, ND	\$131.50	1	(322,490)	(1,982,000)	(1,649,106)	83.20%	(332,894)
143	H&SA - 33 Consolidate/Co-locate Active and Reserve Personnel & Recruiting Centers for Army and Air Force	\$119.30	1	(463,030)	(1,913,400)	(1,402,623)	73.31%	(510,777)
176	S&S - 7 Depot level Reparable Procurement Management Consolidation	\$127.00	1	(369,790)	(1,889,600)	(12,870)	0.68%	(1,876,730)
109	Air Force - 43 Ellsworth Air Force Base, SD and Dyess Air Force Base, TX	\$299.10	1	(316,380)	(1,853,300)	(1,440,482)	77.73%	(412,818)
60	DoN - 10 Submarine Base New London, CT	\$679.60	3	345,440	(1,576,400)	(998,418)	63.34%	(577,982)
145	H&SA - 37 Defense Finance and Accounting Service	\$282.10	1	(158,120)	(1,313,800)	(9,840)	0.75%	(1,303,960)
142	H&SA - 31 Consolidate Transportation Command Components	\$101.80	1	(339,320)	(1,278,200)	(376,647)	29.47%	(901,553)
69	DoN - 23 Naval Shipyard Portsmouth, Kittery, ME	\$448.40	4	(21,420)	(1,262,400)	(261,711)	20.73%	(1,000,689)
5	Army - 11 Fort Monmouth, NJ	\$822.30	6	395,610	(1,025,800)	(272,340)	26.55%	(753,460)
9	Army - 20 Maneuver Training	\$773.10	5	244,050	(948,100)	2,363,640	-249.30%	(3,311,740)
170	Med - 6 Brooks City Base, TX	\$325.30	2	45,930	(940,700)	(611,037)	64.96%	(329,663)
121	E&T - 6 Combat Service Support Center	\$754.00	6	352,420	(934,200)	(1,219,339)	130.52%	285,139
62	DoN - 13 Naval Air Station Atlanta, GA	\$43.00	1	(289,850)	(910,900)	(769,144)	84.44%	(141,756)
3	Army - 8 Fort McPherson, GA	\$197.80	2	(111,390)	(895,200)	(439,692)	49.12%	(455,508)
71	DoN - 26 Naval Station Ingleside, Texas and Naval Air Station Corpus Christi, TX	\$178.39	2	(99,980)	(822,229)	(750,761)	91.31%	(71,468)
173	Med - 12 Convert Inpatient Services to Clinics	\$12.90	1	(250,880)	(818,100)	(761,579)	93.09%	(56,521)

Lt. Gen. Richard
Kelly - DC of
Manne Corps -
Installation and
Logistics

703.695.8572

Hanna, James, CIV, WSO-BRAC

From: Kelly LtGen Richard L [KellyRL@hqmc.usmc.mil]
Sent: Tuesday, July 19, 2005 9:52 AM
To: Hanna, James, CIV, WSO-BRAC
Cc: Vercruysse Col Peter; Hubbell SES Paul C; Davis Anne
Subject: RE:

Mr. Hanna - ACMC is minutes into his pallbearer duties for Gen Wilson's funeral. After the memorial service and interment would be the best time to hook up Gen Newton and Gen Nyland. However, he may have a window of opportunity in between. Let's shoot for 1130-1200 today, and if an opportunity comes up in between we'll go for that. Do you have a direct or cell number for Gen Newton? Gen Nyland's aide's tel number is 202 250-4023; his care phone number is ~~703 795-4180~~.

Thanks much. Rick Kelly

"Excellence in Logistics Supporting
Excellence in War Fighting"

Richard L. Kelly
LtGen, US Marine Corps
Deputy Commandant, Installations and Logistics
703 695-8572

Wendy
Lackland AFB
210-671-2423

1101
1107

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

From: Hanna, James, CIV, WSO-BRAC [mailto:James.Hanna@wso.whs.mil]
Sent: Tuesday, July 19, 2005 8:54 AM
To: Kelly, Richard L., LTGEN USMC
Subject: RE:

General Kelly, met with ACMC along with Chairman Principi. Useful meeting. Commissioner Newton would like ACMC's telephone number for a quick conversation. Understand he will be at Gen Wilson's funeral so a good time for them to connect would be useful as well.

Thanks, Jim

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

From: Kelly LtGen Richard L [mailto:KellyRL@hqmc.usmc.mil]
Sent: Monday, July 18, 2005 6:36 PM
To: Hanna, James, CIV, WSO-BRAC
Cc: Davis Anne (E-mail)
Subject:

Mr. Hanna - do you have a number - office or cell - for Mr. Principi? Gen Nyland would like to talk to him. Thanks. Rick Kelly

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Excellence in War Fighting"

Richard L. Kelly
LtGen, US Marine Corps
Deputy Commandant, Installations and Logistics
703 695-8572



U.S. AIR FORCE

SHIRLEY MOA



SHIRLEY MOA

25,000-29,000 FT
20,000-24,000 FT
15,000-19,000 FT
10,000-14,000 FT

For training purposes, the Air Force normally uses 4000 ft blocks for Air Combat Training (ACT) with a 1,000 ft safety buffer between each 4,000 ft block. That is to say, 5,000 ft would be needed for a 4,000 ft block plus a 1,000 ft safety buffer for the next 4,000' block above it.

Shirley MOA has four full blocks, as depicted to the left, within 19,000 ft of vertical airspace. However, we apparently did not receive any credit for its volume because it was not at least 20,000 ft in altitude. The training value for the Shirley MOA's 19,000 ft volume is the same as if it were 20,000 ft, but its point value for volume was zero under the DOD's formula.



U.S. AIR FORCE

HOG MOA



HOG MOA

15,000-18,000 FT
10,000-14,000 FT
5,000-9,000 FT
100-4,000 FT

The same reasoning applies to the Hog MOA which has an altitude volume from 100 ft to 18,000 ft. This altitude block gives three full ACT blocks and one block that is 1,000 ft short of being a full 4,000 ft. Again, this altitude volume (as depicted to the left) received zero points for airspace volume under the DOD formula, but provides essentially the same training as a full 20,000 ft altitude volume.



U.S. AIR FORCE

RAZORBACK RANGE



<p>Surface to 30,000</p> <p>RWR Lite Threat Emitter</p> <p>Laser Use Authorization</p>
<p>24/7/365</p> <p>SAM Launch Simulation</p> <p>Scoreable</p> <p>Heavy Weight Capable</p>
<p>IMC Weapons Release</p> <p>Lights Out Capabilikty</p>
<p>Chaff and Flare</p> <p>Authorization</p>

Razorback Range is owned, operated, and scheduled by the 188th, and is . . .

SURFACE TO 30,000 FEET

Only Air National Guard Range with Secure UHF/VHF, HaveQuick, and SADL

- **50NM Look from South End of Hog MOA**
- **10 Miles off end of runway**

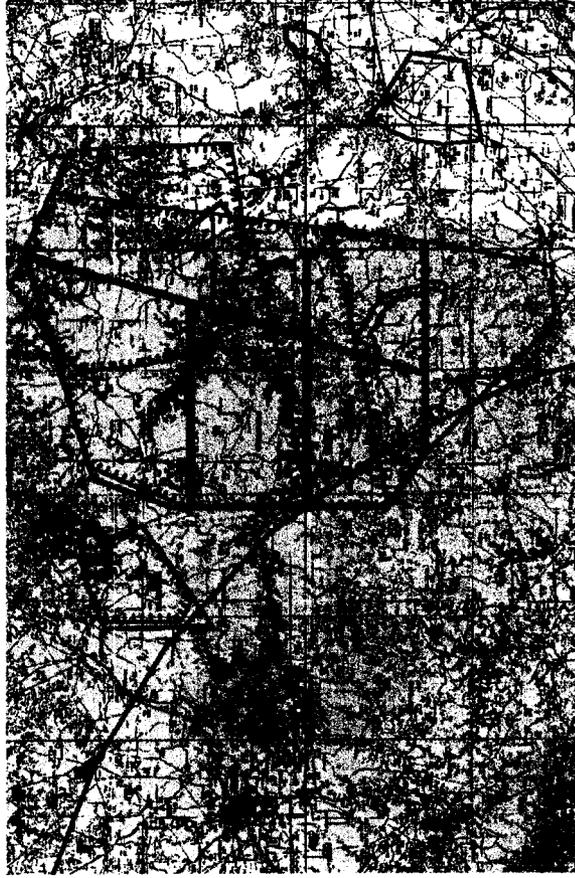


U.S. AIR FORCE

LINDBERGH MOA/ATCAA



LINDBERGH MOA/ATCAA



The Lindbergh MOA/ATCAA altitude blocks range from 7,000 ft to 50,000 ft. However, when entering the MOA/ATCAA from the south which is within 150 NM of Fort Smith (see 150 NM ring on map below), we get cleared to use all sectors of the Lindbergh MOA/ATCAA. In the DOD BRAC data, it appears we did not receive credit for the entire Lindbergh MOA/ATCAA.



U.S. AIR FORCE

AIRSPACE AND RANGE SCORING



- The formula and calculations were so complex, there are no tools available at the unit/base level to go back and check the outcome. However, we do know some areas where we were penalized
- It appears the minimum threshold for scoring in the Airspace Volume category was a minimum of 20,000' altitude block. The Shirley MOA missed it by 1000' the HOG MOA by 2000', and it appears we received no credit for Lindberg, although it is within 150NM.
- We're unsure how the computer handled the common scenario of when a MOA or a range is divided into various subparts, even though clearance typically includes the entire MOA,
- Units located within 150NM of AETC airspace, Test Ranges, etc. (whether they ever get to use them or not) appear to have been credited under the BRAC formula. In other words, availability and scheduling authority were not factored. It appears that some locations received credit for up to 17 scoreable ranges, although they may only have access to one or two of those ranges.

McRee, Bradley, CIV, WSO-BRAC

From: Wear, Kevin, COL, FW/CV [Kevin.Wear@arftsm.ang.af.mil]
Sent: Wednesday, July 13, 2005 6:27 PM
To: Bradley.McRee@wso.whs.mil
Cc: john.dallas@blab.centaf.af.mil
Subject: FW: 188th Fort Smith Airspace Answer
Attachments: BRAC Airspace.ppt

Brad: This is the e-mail I just sent to Commissioner Newton per his request following the San Antonio meeting. Hope he has Power Point on his computer.

Thanks, Kevin

From: Wear, Kevin, COL, FW/CV
Sent: Wednesday, July 13, 2005 5:25 PM
To: 'lloyd.newton@pw.utc.com'
Subject: 188th Fort Smith Airspace Answer

Commissioner Newton: Per your request at the BRAC hearing in San Antonio, TX, I have attached the information on the airspace and ranges that lie out our back door. You specifically asked a question about the altitude blocks. All the information is included on the attached Power Point slides.

Please let me know if we can provide any additional information.

Sincerely,

Kevin L. Wear, COL, AR ANG
479-573-5188 (Office Phone)
479-573-5185 (Cell Phone)

Cirillo, Frank, CIV, WSO-BRAC

From: Cirillo, Frank, CIV, WSO-BRAC
Sent: Thursday, July 14, 2005 11:51 AM
To: Battaglia, Charles, CIV, WSO-BRAC; Mandzia, Lesia, CIV, WSO-BRAC; Heigh, Martin, COL, WSO-BRAC; Hanna, James, CIV, WSO-BRAC
Cc: Schmidt, Carol, CIV, WSO-BRAC; Hill, Christine, CIV, WSO-BRAC; Cook, Robert, CIV, WSO-BRAC; Carnevale, Diane, CIV, WSO-BRAC; Mulkey, Grant, CIV, WSO-BRAC; Van Saun, David, CIV, WSO-BRAC; Carroll, Ray, CIV, WSO-BRAC; Baxter, Kristen, CIV, WSO-BRAC
Subject: FW: More areas of interest
Importance: High

Charlie: here is my take on this and resulting direction - see below

Marty, Jim and Lesia - check for suggested actions:

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

From: BG Sue Turner [mailto:BGTurner@satx.rr.com]
Sent: Thursday, July 14, 2005 9:34 AM
To: Frank Cirillo; Charlie Battaglia
Subject: More areas of interest

Frank and Charlie:

Couple more things I would find helpful.

1. Maybe this weekend, I'd like to do a drive around existing WRAMC and then Bethesda campus to see what WR looks like today (not seen in 10+ yr) and then how/where it fits in new location. I suggest Lesia hook up with Grant and make this drive-by as an early Saturday morning event. It could work Friday afternoon as well but traffic lends itself to Saturday - Charlie or Carol (as acting JCSTL) might want to go as well but just C Turner and Lesia makes sense. Also, Lesia does not have a role in the Adds hearing so could be available as C Turner wishes. **Lesia - unless you hear differently - see C Turner on Friday after she gets here and advise Grant.**

2. The Chm commented last week about hoping more of us getting to Portsmouth, etc. Frankly, I agree and would like to find time to do so before I have to vote. Marty - Jim: This certainly seems possible but sometime after, or in conjunction with, the Adds base visits. **Marty - did you wish to work with Kristin and Jim?**

3. Is a commissioner going to visit Sheppard? Gen Hill said he'd been unable to reschedule. If that doesn't work out, or even if it does, I would like to go. I believe **Marty is working something here and should be the one to contact C Turner** but please assure Lesia as well as Syd is part of the dialogue

4. Sen Conrad called me again yesterday to see if I'd talked to Fig after the AF meetings. This has to do with Predator, Hawk, and new tanker mission. He talked w/Gen Heckman earlier. Told him I'd get caught up in that loop shortly. **We can mention to C Newton as well - I will do that.**

See you tomorrow some time.

Also, were we able to get on DHS schedule for us? Saw Sec C on news last night and he seems focused on his mission.

//Sent from Palm TRE0 650//

SUE E. TURNER
Brig Gen, USAF, NC, (Retired)
H: 210.497.3883
C: 210.410.5416

General Newton

See Sue's note

NAVAL AIR STATION BRUNSWICK, ME

ADDS QUESTION TO SECDEF

- What considerations were given to a complete closure of Naval Air Station Brunswick, ME, and what were the driving factors in deciding on realignment?
- (Navy answer to similar question from our panel): On May 4, 2005, the Infrastructure Executive Counsel (IEC) changed the “Close NAS Brunswick” scenario to realignment (Naval Air Facility) to retain a DoD active duty operational presence in New England for homeland defense and surge capability. Although this change in the recommendation was made late in the process, DON had reviewed, in deliberative sessions, several alternatives regarding NAS Brunswick. NAS Brunswick had been evaluated within DON for either total closure, conversion to a Naval Air Facility (operational air field but no permanently assigned aircraft), or conversion to a Naval Support Activity (airfield would be retained but not in a ready operational status)”.

CLOSURE VERSUS REALIGNMENT

- Closure would reduce excess capacity
- May save approximately four times more than realignment
- Would open property to State or community development to offset economic impact
- P-3/MMA can det to other locations in North East: e.g., Maguire (CFFC choice; would require MILCON), Otis, Westover, Bangor.

COST DATA re CLOSURE:

- Payback Year: 2012 (1 year)
- NPV in 2025(\$K): -843,997
- 1-Time Cost (\$K): 185,844

COST DATA re REALIGNMENT:

- Payback Year: 2015 (4 years)
 - NPV in 2025(\$K): -238,771
 - 1-Time Cost (\$K): 147,156
- If military value criteria one through three are predominant, then it would appear leaving Brunswick as an operational base would be preferable to closure.
 - NAS Jacksonville, while having a single operational useable runway and being somewhat crowded, has the capacity to receive aircraft, personnel and equipment from Brunswick, but with the requirement to construct a hangar, maintenance shops, etc and additional ramp space to accommodate them.

MPRA Force Structure

Total number of P-3s in Fleet: 173 (Typically over 1/3 of these aircraft are unavailable because of being in/awaiting induction into maintenance to repair wing root fatigue problems). MMA: 108 Boeing 737s

HOMEPORT	NUMBER of P-3s	NUMBER of MMA (Boeing 737-800)
ACTIVE DUTY		
NAS Brunswick, ME	34 (24 active squadrons; 4 Special Projects; 6 Reserve)	(37)
NAS Jacksonville, FL	45 (30 active and Reserve; 15 Fleet Replacement Squadron)	(46)
NAS Whidbey Island, WA	44 (30 active and Reserve; 14 VQ)	(46)
MCAS Kaneohe, HI	28 (24 active; 4 Special Projects)	
RESERVE		
NAS Pt. Mugu, CA	6	
NAS New Orleans, LA	6	
NAS Willow Grove, PA	10	(12)
Total	173	108

- Initial Operational Capability (IOC): FY-13
- Final Operational Capability (FOC): FY-2019

MMA introduction will be at VP-30, the single-sited Fleet Replacement Squadron, in Jacksonville

Reserve and following units are included in P-3 numbers

VPU, Special Units Squadron, has its own study/plan

VQ (Electronic Countermeasures) Squadrons in a Joint Navy-Army program, the Aerial Common Sensor Aircraft), not MMA

NAVAL SUBMARINE BASE NEW LONDON

ISSUES

- DoD recommendation to close appears to comply with all eight criteria
- Excess capacity reduced from about 25% to 17% (New London closure represents about 4% of that reduction)
- Choices are Norfolk (Fleet Concentration Area) or Kings Bay (SSBN base; no SSNs stationed)
- Three major parts: 18 SSNs, Submarine School/Learning Center, Maintenance Support
- Plus Electric Boat collocation (two of the next three SSNs are being built at Northrop Grumman Newport News, VA)
- Collocation of Submarine School trainers and Command and Control System Module Off Hull Assembly and Test Site (COATS) facility at E-B results in early delivery of new SSN (could be replicated at Newport News)
- March 2004 Force Structure Plan for 2024: 55 SSN; Congressional submission March 2005: 45. Closure recommendation was based on 55 (decision made prior to lower number). Also, excess capacity considerations were irrespective of specific platforms.
- Eleven SSNs to Norfolk, six SSNs plus NR1, dry-dock and subschool to Kings Bay (also recommended to gain USNS Waters from Naval Ordnance Test Unit (Canaveral)
- Norfolk capacity is sufficient; no significant community impacts
- Kings Bay, plenty of base capacity with limited student Sailor amenities in town
- Student throughput concerns during transition from New London to Kings Bay
- Environmental cleanup costs/conversion of New London to State/community use

MANPOWER IMPLICATIONS OF THIS RECOMMENDATION (EXCLUDES CONTRACTORS)

Total number of military: 7096 Civilian: 952

Military transfers: 6205 Civilian transfers: 317

Approximately 635 civilian billets eliminated (about \$572M savings)

Approximately 165 officers and 726 enlisted billets eliminated (about \$165M + \$580M or \$745M)

Ran COBRA without military billet savings: five years vs three year payback; NPV of \$700M versus \$1.57B

Kings Bay capacity

17,000 acres total with about 2,500 acres suitable for development. Based 11,000 personnel in 1995; all BRAC actions would not reach that level in 2011.

Seven SSBNs, two homeport shifts to Bangor 10/2005

Four oldest Ohio (Tridents) converting by EB in Puget Sound and NNSY in Portsmouth. Florida/Georgia to Kings Bay 06/07 respectively

SSBN: 524' x 33' 143 times two crews

SSGN: 560' x 42' (tomahawk/MK 48s) 154 men and 66 spec ops

SSN: Seawolf: 353' x 40' draft 35' displacement 8K tons 127 crew

Virginia: 377' x 34' displacement 7.8L tons 113 crew

LA 360' x 33 displacement 6.9K tons 127 crew

Norfolk Capacity:

Home ported 20 to 25 SSNs in mid-80s

**Office of General Counsel
Defense Base Closure and Realignment Commission**

Discussion of Legal and Policy Considerations Related to Certain Base Closure and Realignment Recommendations

**Dan Cowhig¹
Deputy General Counsel**

July 14, 2005

This memorandum describes legal and policy constraints on Defense Base Closure and Realignment Commission (Commission) action regarding certain base closure and realignment recommendations. This paper will not describe the limits explicit in the Defense Base Closure and Realignment Act of 1990, as amended (Base Closure Act),² such as the final selection criteria,³ but rather will focus on other less

¹ Major, Judge Advocate General's Corps, U.S. Army. Major Cowhig is detailed to the Defense Base Closure and Realignment Commission under § 2902 of the Defense Base Closure and Realignment Act of 1990, as amended.

² Pub. L. No. 101-510, Div B, Title XXIX, Part A, 104 Stat. 1808 (Nov. 5, 1990), as amended by Act of Dec. 5, 1991, Pub. L. No. 102-190, Div A, Title III, Part D, § 344(b)(1), 105 Stat. 1345; Act of Dec. 5, 1991, Pub. L. No. 102-190, Div B, Title XXVIII, Part B, §§ 2821(a)-(h)(1), 2825, 2827(a)(1), (2), 105 Stat. 1546, 1549, 1551; Act of Oct. 23, 1992, Pub. L. No. 102-484, Div. A, Title X, Subtitle F, § 1054(b), Div. B, Title XXVIII, Subtitle B, §§ 2821(b), 2823, 106 Stat. 2502, 2607, 2608; Act of Nov. 30, 1993, Pub. L. No. 103-160, Div. B, Title XXIX, Subtitle A, §§ 2902(b), 2903(b), 2904(b), 2905(b), 2907(b), 2908(b), 2918(c), Subtitle B, §§ 2921(b), (c), 2923, 2926, 2930(a), 107 Stat. 1911, 1914, 1916, 1918, 1921, 1923, 1928, 1929, 1930, 1932, 1935; Act of Oct. 5, 1994, Pub. L. No. 103-337, Div A, Title X, Subtitle G, §§ 1070(b)(15), 1070(d)(2), Div. B, Title XXVIII, Subtitle B, §§ 2811, 2812(b), 2813(c)(2), 2813(d)(2), 2813(e)(2), 108 Stat. 2857, 2858, 3053, 3055, 3056; Act of Oct. 25, 1994, Pub. L. No. 103-421, § 2(a)-(c), (f)(2), 108 Stat. 4346-4352, 4354; Act of Feb. 10, 1996, Pub. L. No. 104-106, Div A, Title XV, §§ 1502(d), 1504(a)(9), 1505(e)(1), Div. B, Title XXVIII, Subtitle C, §§ 2831(b)(2), 2835-2837(a), 2838, 2839(b), 2840(b), 110 Stat. 508, 513, 514, 558, 560, 561, 564, 565; Act of Sept. 23, 1996, Pub. L. No. 104-201, Div. B, Title XXVIII, Subtitle B, §§ 2812(b), 2813(b), 110 Stat. 2789; Act of Nov. 18, 1997, Pub. L. No. 105-85, Div. A, Title X, Subtitle G, § 1073(d)(4)(B), (C), 111 Stat. 1905; Act of Oct. 5, 1999, Pub. L. 106-65, Div. A, Title X, Subtitle G, § 1067(10), Div. C, Title XXVIII, Subtitle C, §§ 2821(a), 2822, 113 Stat. 774, 853, 856; Act of Oct. 30, 2000, Pub. L. No. 106-398, § 1, 114 Stat. 1654; Act of Dec. 28, 2001, Pub. L. No. 107-107, Div. A, Title X, Subtitle E, § 1048(d)(2), Div B, Title XXVIII, Subtitle C, § 2821(b), Title XXX, §§ 3001-3007, 115 Stat. 1227, 1312, 1342; Act of Dec. 2, 2002, Pub. L. No. 107-314, Div A, Title X, Subtitle F, § 1062(f)(4), 1062(m)(1)-(3), Div. B, Title XXVIII, Subtitle B, § 2814(b), Subtitle D, § 2854, 116 Stat. 2651, 2652, 2710, 2728; Act of Nov. 24, 2003, Pub. L. No. 108-136, Div A, Title VI, Subtitle E, § 655(b), Div. B, Title XXVIII, Subtitle A, § 2805(d)(2), Subtitle C, § 2821, 117 Stat. 1523,

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obvious constraints on Commission action.⁴ This memorandum is not a product of deliberation by the commissioners and accordingly does not necessarily represent their views or those of the Commission.

This discussion uses Air Force Recommendation 33 (AF 33), Niagara Falls Air Reserve Station, NY,⁵ as an illustration. The text of AF 33 follows:

Close Niagara Falls Air Reserve Station (ARS), NY. Distribute the eight C-130H aircraft of the 914th Airlift Wing (AFR) to the 314th Airlift Wing, Little Rock Air Force Base, AR. The 914th's headquarters moves to Langley Air Force Base, VA, the Expeditionary Combat Support (ECS) realigns to the 310th Space Group (AFR⁶) at Schriever Air Force Base, CO, and the Civil Engineering Squadron moves to Lackland Air Force Base, TX. Also at Niagara, distribute the eight KC-135R aircraft of the 107th Air Refueling Wing (ANG⁷) to the 101st Air Refueling Wing (ANG), Bangor International Airport Air Guard Station, ME. The 101st will subsequently retire its eight KC-135E aircraft and no Air Force aircraft remain at Niagara.⁸

1721, 1726; and Act of Oct. 28, 2004, Pub. L. No. 108-375, Div. A, Title X, Subtitle I, § 1084(i), Div. B, Title XXVIII, Subtitle C, §§ 2831-2834, 118 Stat. 2064, 2132.

³ Base Closure Act § 2913.

⁴ Although the Commission has requested the views of the Department of Defense (DoD) on these matters, as of this writing DoD has refused to provide their analysis to the Commission. See Letter from DoD Office of General Counsel (OGC) to Commission Chairman Principi (June 24, 2005) (with email request for information (RFI)) (Enclosure 1) and Letter from DoD OGC to Commission Deputy General Counsel Cowhig (July 5, 2005) (with email RFI) (Enclosure 2). These documents are available in the electronic library on the Commission website, www.brac.gov, filed as a clearinghouse question reply under document control number (DCN) 3686.

⁵ DEPT. OF DEFENSE, BASE CLOSURE AND REALIGNMENT REPORT, VOL. I, PART 2 OF 2: DETAILED RECOMMENDATIONS, Air Force 33 (May 13, 2005). This recommendation and the others cited in this paper are identified by the section and page number where they appear in the recommendations presented by the Secretary of Defense on May 13, 2005.

⁶ Air Force Reserve

⁷ Air National Guard

⁸ The justification, payback, and other segments of AF 33 read:

Justification: This recommendation distributes C-130 force structure to Little Rock (17-airlift), a base with higher military value. These transfers move C-130 force structure from the Air Force Reserve to the active duty — addressing a documented imbalance in the active/reserve manning mix for C-130s. Additionally, this recommendation distributes more capable KC-135R aircraft to Bangor (123), replacing the older, less

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This recommendation, AF 33, includes elements common to many of the other Air Force recommendations that are of legal and policy concern to the Commission:

- the creation of a statutory requirement to base certain aircraft in specific locations;

capable KC-135E aircraft. Bangor supports the Northeast Tanker Task Force and the Atlantic air bridge.

Payback: The total estimated one-time cost to the Department of Defense to implement this recommendation is \$65.2M. The net of all costs and savings to the Department during the implementation period is a savings of \$5.3M. Annual recurring savings after implementation are \$20.1M, with a payback period expected in two years. The net present value of the cost and savings to the Department over 20 years is a savings of \$199.4M.

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of 1,072 jobs (642 direct jobs and 430 indirect jobs) over the 2006-2011 period in the Buffalo-Niagara Falls, NY, metropolitan statistical economic area, which is 0.2 percent of economic area employment. The aggregate economic impact of all recommended actions on this economic region of influence was considered and is at Appendix B of [DEPT. OF DEFENSE, BASE CLOSURE AND REALIGNMENT REPORT, VOL. I, PART 1 OF 2: RESULTS AND PROCESS].

Community Infrastructure Assessment: Review of community attributes indicates no issues regarding the ability of the infrastructure of the communities to support missions, forces, and personnel. There are no known community infrastructure impediments to implementation of all recommendations affecting the installations in this recommendation.

Environmental Impact: There are potential impacts to air quality; cultural, archeological, or tribal resources; land use constraints or sensitive resource areas; noise; threatened and endangered species or critical habitat; waste management; water resources; and wetlands that may need to be considered during the implementation of this recommendation. There are no anticipated impacts to dredging; or marine mammals, resources, or sanctuaries. Impacts of costs include \$0.3M in costs for environmental compliance and waste management. These costs were included in the payback calculation. There are no anticipated impacts to the costs of environmental restoration. The aggregate environmental impact of all recommended BRAC actions affecting the installations in this recommendation have been reviewed. There are no known environmental impediments to the implementation of this recommendation.

The payback figures are known to be incorrect, as they take the manpower costs associated with the 107th Air Refueling Wing, a unit of the New York Air Guard, as a savings despite the fact that the unit is expected to continue to exist at the same manpower levels as it does today. See GAO, MILITARY BASES: ANALYSIS OF DOD'S 2005 SELECTION PROCESS AND RECOMMENDATIONS FOR BASE CLOSURES AND REALIGNMENTS (GAO-05-785) (July 1, 2005).

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- the use of the Base Closure Act to effect changes that do not require the authority of the Act;
- the use of the Base Closure Act to effect changes in how a unit is equipped or organized;
- the use of the Base Closure Act to relocate, withdraw, disband or change the organization of an Air National Guard⁹ unit;
- the use of the Base Closure Act to retire aircraft whose retirement has been barred by statute, and;
- the use of the Base Closure Act to transfer aircraft from a unit of the Air Guard of one state or territory to that of another

The legal and policy considerations related to Commission action on each of these elements are discussed below. While several of these issues are unique to the recommendations impacting units of the Air National Guard, several of the issues are also present in recommendations not involving the Air National Guard.

The Creation of a Statutory Requirement to Base Certain Aircraft in Specified Locations

In AF 33, the Air Force proposes to “distribute ... eight KC-135R aircraft ... to ... Bangor International Airport Air Guard Station,” Maine. The eight tankers are currently based at Niagara Falls, New York. Many other Air Force recommendations also include language that would direct the relocation of individual aircraft to specific sites.

⁹ These units have a dual status. Although often referred to as units of the “Air National Guard” or “Army National Guard,” these units are only part of the National Guard when they are called into Federal service. When serving in a state or territorial role, they form a part of the militia (or guard) of their own state or territory under the command of their own governors. When called into Federal service, the units form a part of the National Guard, a part of the Armed Forces of the United States under the command of the President.

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Assuming that the final recommendations of the Commission to the President proceed through the entire process set forth by the Base Closure Act to become a statute, recommendations like those contained in AF 33 that mandate the placement of specific numbers of certain types of aircraft will place significant constraints on the future operations of the Air Force. In 1995, the previous Defense Base Closure and Realignment Commission found it necessary to remove similar mandatory language contained in recommendations approved in prior BRAC rounds. The restrictions on the placement of aircraft that were removed by the 1995 Commission were considerably less detailed than those currently recommended by the Air Force.¹⁰

The Base Closure Act contains no language that would explicitly limit the life-span of the statutory placement of the specified aircraft at the indicated sites.¹¹

Although the Base Closure Act combines elements of the national security powers of both Congress and the President, the end result of the process will be a statute. Assuming that the resulting statute is legally sound, it will require the concerted action of Congress and the President to relieve the Air Force of basing restrictions placed on specific aircraft by the statute. The deployment and direction of the armed forces, however, is principally the undivided responsibility of the President as Commander in Chief. Were operational circumstances to arise that required the redistribution of those aircraft, this conflict of authorities could delay or prevent appropriate action.¹²

Where an otherwise appropriate recommendation would require the Air Force to place certain aircraft in specific locations, the Commission should amend that recommendation to avoid the imposition of a statutory requirement to base certain aircraft

¹⁰ Faced with rapidly evolving capabilities, threats and missions, as well as a perceived budgetary shortfall, the Air Force would also suffer greater operational impediments from statutory directions on the basing of specific airframes today than under the conditions that prevailed in the early 1990s.

¹¹ Although an argument could be made that the language of section 2904(a)(5) requiring that the Secretary of Defense "complete all such closures and realignments no later than the end of the six-year period beginning on the date on which the President transmits the report pursuant to section 2903(e) containing the recommendations for such closures or realignments" might limit the life-span of such restrictions, the validity of this argument is questionable. Absent a later action by Congress or the President, or a future Commission, the changes effected by the Base Closure Act process are generally intended to be permanent.

¹² Although both § 2904(c)(2) of the Base Closure Act and 10 USC § 2687(c) permit the realignment or closure of a military installation regardless of the restrictions contained in each "if the President certifies to the Congress that such closure or realignment must be implemented for reasons of national security or a military emergency," 10 USC § 2687(c), this language does not relieve the armed forces from the statutory provisions that result from the Base Closure Act process.

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at specific locations. This could be accomplished in some instances by amending the recommendation to identify the units or functions that are to be moved as a result of the closure or realignment of an installation, rather than identifying associated airframes. In instances where the recommendation would move aircraft without any associated units, functions or substantial infrastructure, the Commission should strike references to specific aircraft and locations, substituting instead an authority that would permit the Secretary of the Air Force to distribute the aircraft in accordance with the requirements of the service.¹³

¹³ For example, in AF 32, Cannon Air Force Base, NM, the Air Force recommends

Close Cannon Air Force Base, NM. Distribute the 27th Fighter Wing's F-16s to the 115th Fighter Wing, Dane County Regional Airport, Truax Field Air Guard Station, WI (three aircraft); 114th Fighter Wing, Joe Foss Field Air Guard Station, SD (three aircraft); 150th Fighter Wing, Kirtland Air Force Base, NM (three aircraft); 113th Wing, Andrews Air Force Base, MD (nine aircraft); 57th Fighter Wing, Nellis Air Force Base, NV (seven aircraft), the 388th Wing at Hill Air Force Base, UT (six aircraft), and backup inventory (29 aircraft).

This recommendation would stand-down the active component 27th Fighter Wing and distribute the unit's aircraft to various other active and reserve component units as well as the Air Force backup inventory. The language of this recommendation does not call for the movement of any coherent unit. To bring this recommendation within the purpose of the Base Closure Act, it would be appropriate for the Commission to amend the recommendation to read "Close Cannon Air Force Base, NM. Distribute the 27th Fighter Wing's aircraft as directed by the Secretary of the Air Force, in accordance with law." Such an amendment would be appropriate under the Base Closure Act because the language directing the "distribution" of airframes independent of any personnel or function exceeds the authority granted to the Commission in the Base Closure Act and, depending upon the other issues involved in the particular recommendation, may otherwise violate existing law. See the discussions of the use of the Base Closure Act to effect changes that do not require the authority of the Act and to effect changes in how a unit is equipped or organized. Such an amendment would also have the benefit of preserving the Air Force Secretary's flexibility to react to future needs and missions. Further, if legal bars associated with aspects of recommendations impacting the Air National Guard are removed, for example, by obtaining the consent of the governor concerned, such an amendment could in some instances preserve the Air Force Secretary's access to Base Closure Act statutory authority and funding where the distributions are otherwise consistent with law. This could occur where the Secretary of the Air Force associates infrastructure changes with those distributions.

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**The Use of the Base Closure Act to Effect Changes that do not Require the
Authority of the Act**

The authority of the Base Closure Act is required only where the Department closes “any military installation at which at least 300 civilian personnel are authorized to be employed,”¹⁴ or realigns a military installation resulting in “a reduction by more than 1,000, or by more than 50 percent, in the number of civilian personnel authorized to be employed” at that installation.¹⁵ The Department of Defense may carry out the closure or realignment of a military installation that falls below these thresholds at will.¹⁶

The Department of Defense does require the authority of the Base Closure Act to carry out the recommendation to “close Niagara Falls Air Reserve Station” because the station employs more than 300 civilian personnel. However, in AF 33, the Air Force would also direct the following actions:

Distribute ... eight C-130H aircraft ... to ... Little Rock Air Force Base, AR. The 914th's headquarters moves to Langley Air Force Base, VA

Also at Niagara, distribute ... eight KC-135R aircraft ... to ... Bangor International Airport Air Guard Station, ME.
... retire ... eight KC-135E aircraft

The Department of Defense does not require the authority of the Act to move groups of eight aircraft,¹⁷ or retire groups of eight aircraft, or to move the headquarters of an Air Wing without associated infrastructure changes. Many other Air Force recommendations include similar language directing the movement or retirement of small

¹⁴ 10 USC § 2687(a)(2).

¹⁵ 10 USC § 2687(a)(3).

¹⁶ By definition, the Base Closure Act does not apply to “closures and realignments to which section 2687 of Title 10, United States Code, is not applicable, including closures and realignments carried out for reasons of national security or a military emergency referred to in subsection (c) of such section.” Base Closure Act § 2909(c)(2).

¹⁷ Nor does the Base Closure Act grant the Department of Defense the authority to retire an aircraft where that retirement is prohibited by law. See the discussion regarding the retirement of aircraft whose retirement has been barred by statute, page 15.

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numbers of aircraft, often without moving the associated personnel.¹⁸ Several of the Air Force recommendations do not contain a single element that would require the authority of the Base Closure Act.¹⁹

The time and resource intensive process required by the Base Closure Act is not necessary to implement these actions. Except for the actions that are otherwise barred by law,²⁰ the Air Force could carry out these actions on its own existing authority. By including these actions in the Base Closure Act process, critical resources, including the very limited time afforded to the Commission to its review of the recommendations of the Secretary of Defense, are diverted from actions that do require the authorization of the process set out under the Base Closure Act. Perhaps more significantly, if these actions are approved by the Commission, the legal authority of the Base Closure Act would be thrown behind these actions, with the likely effect of overriding most if not all existing legal restrictions.

The inclusion of actions that conflict with existing legal authority will endanger the entirety of the base closure and realignment recommendations by exposing the recommendations to rejection by the President or Congress or to a successful legal challenge in the courts.²¹

¹⁸ For example, AF 44, Nashville International Airport Air Guard Station, TN, calls for the movement of four C-130Hs from Nashville, Tennessee to Peoria, Illinois, and four C-130Hs to Louisville, Kentucky, without moving the associated personnel

¹⁹ For example, AF 34, Schenectady County Airport Air Guard Station, NY, calls for the movement of four C-130 aircraft from Schenectady, New York, to Little Rock, Arkansas, with a potential direct loss of 19 jobs and no associated base infrastructure changes; AF 38, Hector International Airport Air Guard Station, ND, calls for the retirement of 15 F-16s with no job losses and no associated base infrastructure changes, and; AF 45, Ellington Air Guard Station, TX, calls for the retirement of 15 F-16s with an estimated total loss of five jobs and no associated base infrastructure changes.

²⁰ See in particular the discussions of the use of the Base Closure Act to effect changes in how a unit is equipped or organized, page 9; the relocation, withdrawal, disbandment or change in the organization of an Air National Guard unit, page 11, and; the retirement of aircraft whose retirement has been barred by statute, page 15.

²¹ Although Congressional Research Service recently concluded it is unlikely that a legal challenge to the actions of the Commission would prevail, CRS assumed that the Commission's recommendations would be limited to the closure or realignment of installations. The Availability of Judicial Review Regarding Military Base Closures and Realignments, CRS Order Code RL32963, Watson, Ryan J. (June 24, 2005). See the discussion of the use of the Base Closure Act to effect changes in how a unit is equipped, organized, or deployed, page 9.

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In order to protect the Base Closure Act process, where a recommendation to close or realign and installation falls below the threshold set by Section 2687 of Title 10, United States Code, but does not otherwise conflict with existing legal restrictions, it would be appropriate for the Commission to consider even a minor deviation from the force-structure report or the final selection criteria to be a substantial deviation under the meaning of the Base Closure Act. Where a recommendation to close or realign and installation falls below the threshold set by Section 2687 and conflicts with existing legal restrictions, the Commission must act to remove that recommendation from the list.²²

The Use of the Base Closure Act to Effect Changes in How a Unit is Equipped or Organized

In AF 33, the Air Force would direct the following actions:

Distribute the eight C-130H aircraft of the 914th Airlift Wing (AFR) to the 314th Airlift Wing, Little Rock Air Force Base, AR. The 914th's headquarters moves to Langley Air Force Base, VA

Also at Niagara, distribute the eight KC-135R aircraft of the 107th Air Refueling Wing (ANG) to the 101st Air Refueling Wing (ANG), Bangor International Airport Air Guard Station, ME. The 101st will subsequently retire its eight KC-135E aircraft

In the purpose section of AF 33, the Air Force explains "these transfers move C-130 force structure from the Air Force Reserve to the active duty — *addressing a documented imbalance in the active/reserve manning mix for C-130s.*"²³ Many other Air Force recommendations include similar language directing the reorganization of flying units into Expeditionary Combat Support units,²⁴ the transfer or retirement of specific

²² See the discussions of the use of the Base Closure Act to effect changes that do not require the authority of the Act, page 7, to effect changes in how a unit is equipped or organized, page 9, to relocate, withdraw, disband or change the organization of an Air National Guard unit, page 11, to retire aircraft whose retirement has been barred by statute, page 15, and to transfer aircraft from a unit of the Air Guard of one state or territory to that of another, page 17.

²³ Emphasis added.

²⁴ See, for example, AF 28, Key Field Air Guard Station, MS, recommending in effect that the 186th Air Refueling Wing of the Mississippi Air Guard be reorganized and redesignated as an Expeditionary Combat Support (ECS) unit; AF 30, Great Falls International Airport Air Guard Station, MT, recommending in

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aircraft without movement of the associated personnel,²⁵ or the movement of headquarters without the associated units.

The purpose of the Base Closure Act “is to provide a fair process that will result in the timely closure and realignment of *military installations* inside the United States.”²⁶ Under the Base Closure Act, “the term ‘military installation’ means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility.”²⁷ The purpose of the Act is to close or realign excess real estate and improvements that create an unnecessary drain on the resources of the Department of Defense. The Base Closure Act is not a vehicle to effect changes in how a unit is equipped or organized.

Under the Base Closure Act, “the term ‘realignment’ includes any action which both reduces and relocates functions and civilian personnel positions *but does not include a reduction in force resulting from workload adjustments, reduced personnel or funding levels, or skill imbalances.*”²⁸ A “realignment,” under the Base Closure Act, pertains to installations, not to units or to equipment.

The Base Closure Act does not grant the Commission the authority to change how a unit is equipped or organized. Recommendations that serve primarily to transfer aircraft from one unit to another, to retire aircraft, or to address an imbalance in the active-reserve force mix²⁹ are outside the authority granted by the Act. The Commission must act to remove such provisions from its recommendations.

effect that the 120th Fighter Wing of the Montana Air Guard be reorganized and redesignated as an Expeditionary Combat Support (ECS) unit; AF 38, Hector International Airport Air Guard Station, ND, recommending in effect that the 119th Fighter Wing of the North Dakota Air Guard be reorganized and redesignated as an Expeditionary Combat Support (ECS) unit.

²⁵ See notes 18 and 19 above.

²⁶ Base Closure Act § 2901(b) (emphasis added).

²⁷ Base Closure Act § 2910(4). This definition is identical to that codified at 10 USC § 2687(e)(1).

²⁸ Base Closure Act, §2910(5) (emphasis added). This definition is identical to that codified at 10 USC § 2687(e)(3).

²⁹ For example, AF 39, Mansfield-Lahm Municipal Airport Air Guard Station, OH, “*addressing a documented imbalance in the active/Air National Guard/Air Force Reserve manning mix for C-130s*” by closing “Mansfield-Lahm Municipal Airport Air Guard Station (AGS), OH,” distributing “the eight C-130H aircraft of the 179th Airlift Wing (ANG) to the 908th Airlift Wing (AFR), Maxwell Air Force Base, AL (four aircraft), and the 314th Airlift Wing, Little Rock Air Force Base, AR (four aircraft).” Emphasis added.

The Use of the Base Closure Act to Relocate, Withdraw, Disband or Change the Organization of an Air National Guard Unit

In AF 33, the Air Force proposes to “distribute the eight KC-135R aircraft of the 107th Air Refueling Wing (ANG) to the 101st Air Refueling Wing (ANG), Bangor International Airport Air Guard Station,” Maine. Under the recommendation, “no Air Force aircraft remain at Niagara.” The recommendation is silent as to the disposition of the 107th Air Refueling Wing of the New York Air Guard. The recommendation would either disband the 107th, or change its organization from that of a flying unit to a ground unit.³⁰

Many other Air Force recommendations would have similar effects, relocating, withdrawing, disbanding or changing the organization of Air National Guard units. In most instances, where the Air Force recommends that an Air Guard flying unit be stripped of its aircraft, the Air Force explicitly provides that the unit assume an expeditionary combat support (ECS) role. For example, in AF 28, Key Field Air Guard Station, MS, the Air Force would

Realign Key Field Air Guard Station, MS. Distribute the 186th Air Refueling Wing’s KC-135R aircraft to the 128th Air Refueling Wing (ANG), General Mitchell Air Guard Station, WI (three aircraft); the 134th Air Refueling Wing (ANG), McGhee-Tyson Airport Air Guard Station, TN (three aircraft); and 101st Air Refueling Wing (ANG), Bangor International Airport Air Guard Station, ME (two aircraft). One aircraft will revert to backup aircraft inventory. The 186th Air Refueling Wing’s fire fighter positions move to the 172^d Air Wing at Jackson International Airport, MS, and the expeditionary combat support (ECS) will remain in place.

Similarly, in DoN³¹ 21, Recommendation for Closure and Realignment Naval Air Station Joint Reserve Base Willow Grove, PA, and Cambria Regional Airport,

³⁰ If the intention is to disband the unit, additional legal issues are present. The end-strength of the Air National Guard is set by Congress. Eliminating a refueling wing would alter the end-strength of the Air National Guard.

³¹ Department of the Navy

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Johnstown, PA, the Navy proposes to “close Naval Air Station Joint Reserve Base Willow Grove ... deactivate the 111th Fighter Wing (Air National Guard).” In AF 38, Hector International Airport Air Guard Station, ND, the Air Force recommends that the Commission “realign Hector International Airport Air Guard Station, ND. The 119th Fighter Wing’s F-16s (15 aircraft) retire. The wing’s expeditionary combat support elements remain in place.” As justification, the Air Force indicates “the reduction in F-16 force structure and the need to align common versions of the F-16 at the same bases argued for realigning Hector to allow its aircraft to retire *without a flying mission backfill*.”³²

Clearly, these and similar recommendations contemplate an action whose direct or practical effect will be a change in the organization, or a withdrawal, or a disbandment of an Air National Guard unit. There are specific statutory provisions that limit the authority of any single element of the Federal Government to carry out such actions.

By statute, “each State or Territory and Puerto Rico may fix the location of the units ... of its National Guard.”³³ This authority of the Commander in Chief of a state or territorial militia is not shared with any element of the Federal Government. Although the President, as the Commander in Chief of the Armed Forces of the United States, “may designate the units of the National Guard ... to be maintained in each State and Territory” in order “to secure a force the units of which when combined will form complete higher tactical units ... no change in the branch, organization, or allotment of a unit located entirely within a State may be made without the approval of its governor.”³⁴ The clear intent of these statutes and other related provisions in Title 32, United States Code is to recognize the dual nature of the units of the National Guard, and to ensure that the rights and responsibilities of both sovereigns, the state and the Federal governments, are protected. According to the Department of Defense, no governor has consented to any of the recommended Air National Guard actions.³⁵

Several rationales might be offered to avoid giving effect to these statutes in the context of an action by the Commission. It could be argued that since the

³² Emphasis added.

³³ 32 USC § 104(a).

³⁴ 32 USC § 104(c).

³⁵ Memorandum, Office of the Chief of Staff of the Air Force, Base Realignment and Closure Division, subject: Inquiry Response re: BI-0068 (“The Air Force has not received consent to the proposed realignments or closures from any Governors concerning realignment or closure of Air National Guard installations in their respective states.”) (June 16, 2005) (Enclosure 3).

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recommendations of the Commission, if forwarded by the President to Congress, and if permitted by Congress to pass into law, would themselves become a statute, the recommendations would supersede these earlier statutory limitations. This argument could be bolstered by the fact that later statutes are explicitly considered to supersede many provisions of Title 32, United States Code.³⁶ It could also be argued that since the Commission would merely recommend, but does not itself decide or direct a change in the organization, withdrawal, or disbandment, no action by the Commission could violate these statutes.³⁷ Each of these lines of reasoning would require the Commission to ignore the inherent authority of the chief executive of a state to command the militia of the state and the unique, dual nature of the National Guard as a service that responds to both state and Federal authority.

A related provision of Title 10, United States Code reflects "a unit of ... the Air National Guard of the United States may not be relocated or withdrawn under this chapter³⁸ without the consent of the governor of the State or, in the case of the District of Columbia, the commanding general of the National Guard of the District of Columbia."³⁹ It could be argued that this provision is limited by its language to the chapter in which it is found, Chapter 1803, Facilities for Reserve Components. That chapter does not include the codified provisions related to base closures and realignments, Section 2687,⁴⁰ which is located in Chapter 159, Real Property, much less the session law that comprises the Base Closure Act. Such an argument, however, would ignore the fact that the Base Closure Act implements the provisions of Section 2687, and that Chapter 1803, Facilities for Reserve Components, applies the general statutory provisions related to the real property and facilities of the Department of Defense found in Chapter 159, Real Property, to the particular circumstances of the Reserve Components.

The Commission must also consider the Title 32, United States Code limitation that "unless the President consents ... an organization of the National Guard whose

³⁶ Section 34(a) of Act Sept. 2, 1958, Pub. L. No. 85-861, 72 Stat. 1568, which recodified the statutory provisions relating to the National Guard as Title 32, provided that "laws effective after December 31, 1957 that are inconsistent with this Act shall be considered as superseding it to the extent of the inconsistency."

³⁷ It might even be asserted that the responsibility and authority of the Commission is limited to verifying that the recommendations of the Department of Defense are consistent with the criteria set out in the Base Closure Act, so that the Commission has no responsibility or authority to ensure that the recommendations comport with other legal restrictions. Such an argument would ignore the obligation of every agent of the Government to ensure that he or she acts in accordance with the law.

³⁸ Chapter 1803, Facilities for Reserve Components, 10 USC §§ 18231 *et seq.*

³⁹ 10 USC § 18238.

⁴⁰ 10 USC § 2687.

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members have received compensation from the United States as members of the National Guard may not be disbanded.”⁴¹ While it could be argued that if the President were to forward to Congress a report from the Commission that contained a recommendation that would effectively disband an “organization of the National Guard whose members have received compensation from the United States as members of the National Guard,” the consent of the President could be implied, such an argument is problematic. Implied consent requires an unencumbered choice. Under the mechanism established by the Base Closure Act, the President would be required to weigh the detrimental effects of setting aside the sum total of the base closure and realignment recommendations against acceding to the disbanding of a small number of National Guard organizations. Under those circumstances, consent could not reasonably be implied. What is more, it would be at best inappropriate to allow the President to be placed in such a position by allowing a rider among the Commission’s recommendations whose effect would be to disband a guard unit covered by that section of Title 32.

Withdrawing, disbanding, or changing the organization of the Air National Guard units as recommended by the Air Force would be an undertaking unrelated to the purpose of the Base Closure Act. It would require the Commission to alter core defense policies. A statute drawn from the text of the National Defense Act of 1916 proclaims that “in accordance with the traditional military policy of the United States, it is essential that the strength and organization of the Army National Guard and the Air National Guard as an integral part of the first line defenses of the United States be maintained and assured at all times.”⁴² This traditional military policy was given new vigor in the aftermath of the Vietnam War with the promulgation of what is generally referred to today as the Abrams Doctrine. A host of interrelated actions by Congress, the President, the states and the courts have determined the current strength and organization of the National Guard. While the Base Closure Act process is an appropriate vehicle to implement base closures and realignments that become necessary as a result of changes to the strength and organization of the National Guard, the Base Closure Act process is not an appropriate vehicle to make those policy changes.

Any discussion of these statutory provisions must take into account the underlying Constitutional issues. These statutes not only flesh out the exercise of the powers granted to the Legislative and Executive branches of Federal Government,⁴³ they

⁴¹ 32 USC § 104(f)(1).

⁴² 32 USC § 102.

⁴³ See Perpich v. Department of Defense, 496 U.S. 334 (1990); see generally Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579 (1952) (Steel Seizures).

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also express a long-standing compromise with the prerogatives of the governors, as chief executives of the states, that antedate the ratification of the Constitution.⁴⁴ Any argument that would propose to sidestep these statutes should be evaluated with the knowledge that the statutes are expressions of core Constitutional law and national policy.

Where the practical result of an Air Force recommendation would be to withdraw, disband, or change the organization of an Air National Guard unit, the Commission may not approve such a recommendation without the consent of the governor concerned and, where the unit is an organization of the National Guard whose members have received compensation from the United States as members of the National Guard, of the President.⁴⁵

The Use of the Base Closure Act to Retire Aircraft whose Retirement Has Been Barred by Statute

In AF 33, the Air Force recommends that the 101st Air Refueling Wing of the Maine Air Guard “retire its eight KC-135E aircraft.” As discussed above, the

⁴⁴ See Steel Seizures; W. Winthrop, *MILITARY LAW AND PRECEDENTS* (2d ed. 1920). The statutory protection of the ancient privileges and organization of various militia units is also an expression of the “natural law of war.” See note 45, below.

⁴⁵ Another potential inhibiting factor is that certain militia units enjoy a statutory right to retention of their ancient privileges and organization:

Any corps of artillery, cavalry, or infantry existing in any of the States on the passage of the Act of May 8, 1792, which by the laws, customs, or usages of those States has been in continuous existence since the passage of that Act [May 8, 1792], shall be allowed to retain its ancient privileges, subject, nevertheless, to all duties required by law of militia: Provided, That those organizations may be a part of the National Guard and entitled to all the privileges thereof, and shall conform in all respects to the organization, discipline, and training to the National Guard in time of war: Provided further, That for purposes of training and when on active duty in the service of the United States they may be assigned to higher units, as the President may direct, and shall be subject to the orders of officers under whom they shall be serving.

Section 32(a) of Act of August 10, 1956, Ch. 1041, 70A Stat. 633. Although this statute has relevance only to the militia of the 13 original states, and perhaps to the militia of Vermont, Maine and West Virginia, neither the Department of Defense nor the Commission has engaged in the research necessary to determine whether any of the units impacted by these recommendations enjoys this protection.

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Department of Defense does not require the authority of the Base Closure Act to retire aircraft. Similarly, the Base Closure Act does not grant the Commission the authority to retire aircraft.

It is well-settled law that Congress' power under the Constitution to equip the armed forces includes the authority to place limitations on the disposal of that equipment. For a variety of reasons, Congress has exercised that authority extensively in recent years with regard to two aircraft types that are prominent in the Air Force recommendations to retire aircraft.

The National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2004 prohibited the Secretary of the Air Force from retiring more than 12 KC-135E during FY 2004.⁴⁶ Under the Ronald W. Reagan NDAA for FY 2005, "the Secretary of the Air Force may not retire any KC-135E aircraft of the Air Force in fiscal year 2005."⁴⁷ It appears likely that NDAA 2006 will contain provisions prohibiting the retirement of not only KC-135E, but also C-130E and C-130H.⁴⁸

Assuming that the final recommendations of the Commission to the President proceed through the entire process set forth by the Base Closure Act to become a statute, any recommendations that mandate the retirement of specific numbers of certain types of aircraft will also have statutory authority. Whether the direction to retire those aircraft contained in the statute resulting from the Base Closure Act recommendations or the prohibition against retiring those aircraft contained in the National Defense Authorization Act would control is a matter of debate.⁴⁹ Nonetheless, since the Base Closure Act does not grant the Commission the authority to retire aircraft, and the Department of Defense does not require the authority of the Base Closure Act to retire aircraft in the absence of a statutory prohibition, the Commission should ensure that all references to retiring certain

⁴⁶ National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136, Div. A, Title I, Subtitle D, § 134, 117 Stat. 1392 (Nov. 23, 2003).

⁴⁷ Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Pub. L. No. 108-375, Div. A, Title I, Subtitle D, § 131, 118 Stat. 1811 (Oct. 28, 2004).

⁴⁸ See Senate 1043, 109th Cong., A Bill to Authorize Appropriations for Fiscal Year 2006 for Military Activities of the Department of Defense, Title I, Subtitle D, § 132 ("The Secretary of the Air Force may not retire any KC-135E aircraft of the Air Force in fiscal year 2006") and § 135 ("The Secretary of the Air Force may not retire any C-130E/H tactical airlift aircraft of the Air Force in fiscal year 2006.") (May 17, 2005).

⁴⁹ See Congressional Research Service Memorandum, Base Realignment and Closure of National Guard Facilities: Application of 10 USC § 18238 and 32 USC § 104(c), Flynn, Aaron M. (July 6, 2005).

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Discussion of Legal and Policy Considerations Related to Certain Base Closure and
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types of aircraft are deleted from the Commission's recommendations in order to avoid a potential conflict of laws.

The Use of the Base Closure Act to Transfer Aircraft from a Unit of the Air Guard of One State or Territory to that of Another

In AF 33, the Air Force recommends:

Also at Niagara, distribute the eight KC-135R aircraft of the 107th Air Refueling Wing (ANG) to the 101st Air Refueling Wing (ANG), Bangor International Airport Air Guard Station, ME.

This recommendation would effectively transfer the entire complement of aircraft from a unit of the New York Air Guard, the 107th Air Refueling Wing, to a unit of the Maine Air Guard, the 101st Air Refueling Wing. Many other Air Force recommendations include similar language directing the transfer of aircraft from the Air Guard of one state or territory to that of another.⁵⁰

The effect of such a recommendation would be to combine the issues raised by a change in the organization, withdrawal, or disbandment of an Air National Guard unit with those raised by the use of the Base Closure Act to effect changes in how a unit is equipped or organized, and those raised by use of the Act to effect changes in how a unit is equipped or organized. The legal impediments and policy concerns of each issue are compounded, not reduced, by their combination.

Further, Congress alone is granted the authority by the Constitution to equip the Armed Forces of the United States. Congress did not delegate this power to the Commission through the language of the Base Closure Act. Where Congress has authorized the purchase of certain aircraft with the express purpose of equipping the Air

⁵⁰ See, for example, AF 34, Schenectady County Airport Air Guard Station, NY, recommends that the 109th Airlift Wing of the New York Air Guard "transfer four C-130H aircraft" to the 189th Airlift Wing of the Arkansas Air Guard, and; AF 44, Nashville International Airport Air Guard Station, TN, calls for the movement of four C-130Hs from Nashville, Tennessee to Peoria, Illinois, and four C-130Hs to Louisville, Kentucky.

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Guard of a particular state or territory,⁵¹ the Commission may not approve any recommendation action that would contravene the intent of Congress.

Conclusion and Recommendation

Each of the areas of concern discussed above

- the creation of a statutory requirement to base certain aircraft in specific locations;
- the use of the Base Closure Act to effect changes that do not require the authority of the Act;
- the use of the Base Closure Act to effect changes in how a unit is equipped or organized;
- the use of the Base Closure Act to relocate, withdraw, disband or change the organization of an Air National Guard unit;
- the use of the Base Closure Act to retire aircraft whose retirement has been barred by statute, and;
- the use of the Base Closure Act to transfer aircraft from a unit of the Air Guard of one state or territory to that of another

presents a significant policy concern or an outright legal bar. These policy concerns and legal bars coincide in most instances with a substantial deviation from the force-structure report or the final selection criteria set out in the Base Closure Act.⁵²

⁵¹ Memorandum, Office of the Chief of Staff of the Air Force, Base Realignment and Closure Division, subject: Inquiry Response, re: BI-0099 - ANG aircraft acquired through congressional add (June 30, 2005) (Enclosure 4).

⁵² The final selection criteria are:

- (a) Final selection criteria. The final criteria to be used by the Secretary in making recommendations for the closure or realignment of military installations inside the United States under this part in 2005 shall be the military value and other criteria specified in subsections (b) and (c).

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The Commission should analyze each recommendation for the presence of these issues. Where the Commission finds significant policy issues, it should examine the recommendation concerned to determine whether the recommendation is consistent with

(b) Military value criteria. The military value criteria are as follows:

(1) The current and future mission capabilities and the impact on operational readiness of the total force of the Department of Defense, including the impact on joint warfighting, training, and readiness.

(2) The availability and condition of land, facilities, and associated airspace (including training areas suitable for maneuver by ground, naval, or air forces throughout a diversity of climate and terrain areas and staging areas for the use of the Armed Forces in homeland defense missions) at both existing and potential receiving locations.

(3) The ability to accommodate contingency, mobilization, surge, and future total force requirements at both existing and potential receiving locations to support operations and training.

(4) The cost of operations and the manpower implications.

(c) Other criteria. The other criteria that the Secretary shall use in making recommendations for the closure or realignment of military installations inside the United States under this part in 2005 are as follows:

(1) The extent and timing of potential costs and savings, including the number of years, beginning with the date of completion of the closure or realignment, for the savings to exceed the costs.

(2) The economic impact on existing communities in the vicinity of military installations.

(3) The ability of the infrastructure of both the existing and potential receiving communities to support forces, missions, and personnel.

(4) The environmental impact, including the impact of costs related to potential environmental restoration, waste management, and environmental compliance activities.

(d) Priority given to military value. The Secretary shall give priority consideration to the military value criteria specified in subsection (b) in the making of recommendations for the closure or realignment of military installations.

(e) Effect on Department and other agency costs. The selection criteria relating to the cost savings or return on investment from the proposed closure or realignment of military installations shall take into account the effect of the proposed closure or realignment on the costs of any other activity of the Department of Defense or any other Federal agency that may be required to assume responsibility for activities at the military installations.

(f) Relation to other materials. The final selection criteria specified in this section shall be the only criteria to be used, along with the force-structure plan and infrastructure inventory referred to in section 2912, in making recommendations for the closure or realignment of military installations inside the United States under this part in 2005.

Base Closure Act, § 2913.

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the force-structure plan and the final selection criteria, or whether there is a substantial deviation from the force-structure plan or the final selection criteria.

Where the Commission finds substantial deviation or a legal bar, it must act to amend the recommendation, where possible, to correct the substantial deviation or overcome the legal bar. Where amendment to correct the substantial deviation or overcome the legal bar is not possible, the Commission must act to strike the recommendation from the list.

Author: Dan Cowhig, Deputy General Counsel *DC 14 Jul 05*
Approved: David Hague, General Counsel

DH 14 Jul 05

4 Enclosures

1. Letter from DoD Office of General Counsel (OGC) to Commission Chairman Principi (with email request for information (RFI)) (June 24, 2005).
2. Letter from DoD OGC to Commission Deputy General Counsel Cowhig (with email RFI) (July 5, 2005).
3. Memorandum, Office of the Chief of Staff of the Air Force, Base Realignment and Closure Division, subject: Inquiry Response re: BI-0068 (June 16, 2005).
4. Memorandum, Office of the Chief of Staff of the Air Force, Base Realignment and Closure Division, subject: Inquiry Response, re: BI-0099 - ANG aircraft acquired through congressional add (June 30, 2005).



**DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
1600 DEFENSE PENTAGON
WASHINGTON, DC 20301-1600**



June 24, 2005

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

Dear Chairman Principi:

The Department of Defense is pleased to respond to Commission inquiries concerning the 2005 Base Realignment and Closure (BRAC) recommendations. The Deputy General Counsel of the Commission, Mr. Dan Cowhig, by e-mail dated June 10, 2005, requested detailed legal analyses regarding the authority of the Department of Defense to make and implement certain recommendations affecting the Air National Guard. Mr. Cowhig also requested a description of any consultation or coordination that may have occurred between the Department of Defense and the Governors and Adjutants General regarding the proposed realignments of Air National Guard units. Information regarding Air Force consultation with Governors and Adjutants General is being provided under separate cover; you may expect to receive that information in the next few days.

The remaining four questions requested a series of legal opinions addressing the Department's authority to make and implement the recommendations forwarded to the Commission concerning Air National Guard units and equipment. We recently received word from the Department of Justice that on May 23, 2005, you requested similar legal advice from the Attorney General. In keeping with its common practice, the Office of Legal Counsel (OLC) has asked us to provide our views concerning these issues, and we will do so soon. As a consequence, we believe it would be premature and inappropriate for the Department to provide its views on these issues to the Commission in advance of OLC's opinion for the Commission.

I certify that the information contained herein is accurate and complete to the best of my knowledge and belief. If you have any questions concerning this response, please feel free to contact me at 703-693-4842 or nicole.bayert@osd.pentagon.mil.

Nicole D. Bayert
Associate General Counsel
Environment & Installations



ENCLOSURE 1

Cowhig, Dan, CIV, WSO-BRAC

From: RSS dd - WSO BRAC Clearinghouse
Sent: Friday, June 24, 2005 9:06 AM
To: Cowhig, Dan, CIV, WSO-BRAC
Cc: Flood, Glenn, CIV, OASD-PA; Hoggard, Jack, CTR, WSO-OSD_DST JCSG
Subject: OSD BRAC Clearing House Tasker C0285 ANG realignments in conflict with USC law

Attachments: BRAC Subpoena.pdf

Attached is the updated response to your inquiry, OSD Clearinghouse Tasker C0285 (PDF file is provided).



BRAC

jbpoena.pdf (136 KI)

OSD BRAC Clearinghouse

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

From: Cowhig, Dan, CIV, WSO-BRAC
Sent: Friday, June 17, 2005 10:57 AM
To: RSS dd - WSO BRAC Clearinghouse
Cc: Sillin, Nathaniel, CIV, WSO-BRAC; Cook, Robert, CIV, WSO-BRAC; Meyer, Robert, CTR, OSD-ATL
Subject: RE: OSD BRAC Clearing House Tasker #C0285 ANG realignments in conflict with USC law

Clearinghouse -

Thank you. The memorandum indicates that a further response is pending. Please keep the tasker open until the answer is complete.

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
Fax 703 699-2735
dan.cowhig@wso.whs.mil
www.brac.gov

From: RSS dd - WSO BRAC Clearinghouse
Sent: Friday, June 17, 2005 10:18 AM
To: Cowhig, Dan, CIV, WSO-BRAC
Cc: Sillin, Nathaniel, CIV, WSO-BRAC; Cook, Robert, CIV, WSO-BRAC
Subject: FW: OSD BRAC Clearing House Tasker #C0285 ANG realignments in conflict with USC law

Attached is the response to your inquiry, OSD Clearinghouse Tasker # C0285.
(PDF file is provided.)

OSD BRAC Clearinghouse

Subject: RE: OSD BRAC Clearing House Tasker #0285 ANG realignments in conflict with USC law

Attached is the answer to subject tasker. << File: BI-0056,CT0285, Dan Cowhig, 16 Jun 05.pdf >>

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

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
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Arlington Virginia 22202-3920
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www.brac.gov



DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
1600 DEFENSE PENTAGON
WASHINGTON, DC 20301-1600



July 5, 2005

Mr. Dan Cowhig
Deputy General Counsel
Defense Base Closure and Realignment Commission
2521 South Clark Street, Suite 600
Arlington, Virginia 22202-3920

Dear Mr. Cowhig:

This letter responds to your e-mail to the BRAC Clearinghouse, dated June 24, 2005. You asked for the legal advice the Department of Defense received regarding the authority of the Department to make and implement certain recommendations affecting the Air National Guard. You also requested copies of any pertinent documents.

Those involved in developing BRAC recommendations for the Secretary's consideration were advised by counsel regarding the authority of the Department of Defense to make and implement certain recommendations affecting the Air National Guard. The substance of this advice is protected from disclosure by the attorney-client privilege.

If you have any questions concerning this response, please contact Mrs. Nicole D. Bayert, Associate General Counsel for Environment & Installations, at 703-693-4842 or nicole.bayert@osd.pentagon.mil.

Sincerely,

Frank R. Jimenez
Acting Deputy General Counsel
(Legal Counsel)



ENCLOSURE 2

Cowhig, Dan, CIV, WSO-BRAC

From: RSS dd - WSO BRAC Clearinghouse
Sent: Tuesday, July 05, 2005 12:29 PM
To: Cowhig, Dan, CIV, WSO-BRAC
Subject: FW: Response to Clearinghouse Tasker 418 or 419 - question from Dan Cowhig via June 24 email

Attachments: Response to Commission request for legal advice on guard signed.pdf

Attached is the response to your query OSD BRAC Clearinghouse # 0418, in PDF format.

OSD BRAC Clearinghouse

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

From: Rice, Ginger, Mrs, OSD-ATL
Sent: Tuesday, July 05, 2005 12:16 PM
To: RSS dd - WSO BRAC Clearinghouse
Cc: Yellin, Alex, CTR, OSD-ATL; Casey, James, CTR, OSD-ATL; Alford, Ralph, CTR, OSD-ATL; Meyer, Robert, CTR, OSD-ATL; Buzzell, Brian, CTR, OSD-ATL; Harvey, Marian, CTR, OSD-ATL
Subject: FW: Response to Clearinghouse Tasker 418 or 419 - question from Dan Cowhig via June 24 email

Attached is the response to Clearinghouse tasker 418 or 419 - please process appropriately.

Ginger B Rice
OSD BRAC Office
(703) 690-6101

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

From: Bayert, Nicole, Ms, DoD OGC
Sent: Tuesday, July 05, 2005 11:54 AM
To: Rice, Ginger, Mrs, OSD-ATL
Cc: Potochney, Peter, Mr, OSD-ATL; Yellin, Alex, CTR, OSD-ATL
Subject: Response to Clearinghouse Tasker 418 or 419 - question from Dan Cowhig via June 24 email

Please ensure attached gets to clearinghouse for appropriate action - including provision to Congress w/in 48 hours. Thanks.

Nicole D. Bayert
Department of Defense
Associate General Counsel
(Environment & Installations)
703-693-4842; fax 693-4507

CAUTION: This message may contain information protected by the attorney-client, attorney work product, deliberative process, or other privilege. Do not disseminate without the approval of the Office of the DoD General Counsel.

Cowhig, Dan, CIV, WSO-BRAC

From: Cowhig, Dan, CIV, WSO-BRAC
Sent: Tuesday, July 05, 2005 11:05 AM
To: RSS dd - WSO BRAC Clearinghouse
Cc: Hague, David, CIV, WSO-BRAC; Sillin, Nathaniel, CIV, WSO-BRAC; Meyer, Robert, CTR, OSD-ATL; Cirillo, Frank, CIV, WSO-BRAC; Cook, Robert, CIV, WSO-BRAC
Subject: RE: OSD BRAC Clearinghouse Tasker #0418 - BRAC Commission RFI

Clearinghouse -

Request update on status of RFI. No response to date.

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
Fax 703 699-2735
dan.cowhig@wso.whs.mil
www.brac.gov

From: RSS dd - WSO BRAC Clearinghouse
Sent: Friday, June 24, 2005 5:11 PM
To: Alford, Ralph, CTR, OSD-ATL; Yellin, Alex, CTR, OSD-ATL; Buzzell, Brian, CTR, OSD-ATL; Casey, James, CTR, OSD-ATL; Meyer, Robert, CTR, OSD-ATL
Cc: Cowhig, Dan, CIV, WSO-BRAC
Subject: OSD BRAC Clearinghouse Tasker #0418 - BRAC Commission RFI

Please provide a response to the inquiry below and return to OSD BRAC Clearinghouse NLT noon on Wednesday 29 June 2005, with the designated signature authority, in PDF format.

Thank you for your cooperation and timeliness in this matter.

OSD BRAC Clearinghouse

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

From: Cowhig, Dan, CIV, WSO-BRAC
Sent: Friday, June 24, 2005 4:47 PM
To: RSS dd - WSO BRAC Clearinghouse
Cc: Hague, David, CIV, WSO-BRAC; Sillin, Nathaniel, CIV, WSO-BRAC; Meyer, Robert, CTR, OSD-ATL; Cirillo, Frank, CIV, WSO-BRAC; Cook, Robert, CIV, WSO-BRAC
Subject: BRAC Commission RFI

Clearinghouse -

Please respond to the following:

What legal advice did the Department of Defense receive on the questions given below during the formulation of the base closure and realignment recommendations? Please provide copies of any pertinent documents.

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 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.

If they exist, legal opinions on these matters fall within the ambit of "all information used by the Secretary to prepare the recommendations."

Please expedite your response to this request.

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
Fax 703 699-2735
dan.cowhig@wso.whs.mil
www.brac.gov

From: RSS dd - WSO BRAC Clearinghouse
Sent: Friday, June 24, 2005 9:06 AM
To: Cowhig, Dan, CIV, WSO-BRAC
Cc: Flood, Glenn, CIV, OASD-PA; Hoggard, Jack, CTR, WSO-OSD_DST JCSG
Subject: OSD BRAC Clearing House Tasker C0285 ANG realignments in conflict with USC law

Attached is the updated response to your inquiry, OSD Clearinghouse Tasker C0285 (PDF file is provided).

<< File: BRAC Subpoena.pdf >>

OSD BRAC Clearinghouse

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

From: Cowhig, Dan, CIV, WSO-BRAC
Sent: Friday, June 17, 2005 10:57 AM
To: RSS dd - WSO BRAC Clearinghouse
Cc: Sillin, Nathaniel, CIV, WSO-BRAC; Cook, Robert, CIV, WSO-BRAC; Meyer, Robert, CTR, OSD-ATL
Subject: RE: OSD BRAC Clearing House Tasker #C0285 ANG realignments in conflict with USC law

Clearinghouse -

Thank you. The memorandum indicates that a further response is pending. Please keep the tasker open until the answer is complete.

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
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Voice 703 699-2974
Fax 703 699-2735
dan.cowhig@wso.whs.mil
www.brac.gov

From: RSS dd - WSO BRAC Clearinghouse
Sent: Friday, June 17, 2005 10:18 AM
To: Cowhig, Dan, CIV, WSO-BRAC
Cc: Sillin, Nathaniel, CIV, WSO-BRAC; Cook, Robert, CIV, WSO-BRAC
Subject: FW: OSD BRAC Clearing House Tasker #C0285 ANG realignments in conflict with USC law

Attached is the response to your inquiry, OSD Clearinghouse Tasker # C0285.
(PDF file is provided.)

OSD BRAC Clearinghouse

Subject: RE: OSD BRAC Clearing House Tasker #0285 ANG realignments in conflict with USC law

Attached is the answer to subject tasker. << File: BI-0056,CT0285, Dan Cowhig, 16 Jun 05.pdf >>

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

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.

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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
Fax 703 699-2735
dan.cowhig@wso.whs.mil <<mailto:dan.cowhig@wso.whs.mil>>
www.brac.gov

16 June 2005

Inquiry Response

Re: BI-0068

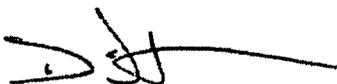
Requester: OSD Clearinghouse

Question: Identify whether or not the respective Governor consents to each proposed realignment or closure impacting an Air Guard installation.

Answer: The Air Force has not received consent to the proposed realignments or closures from any Governors concerning realignment or closure of Air National Guard installations in their respective states. There are no letters from any Governor, addressed to the Air Force, withholding consent to realignment or closure of Air National Guard installations in their respective states. However, there is one letter, (attached) from Pennsylvania Governor Rendell to Secretary Rumsfeld, non-consenting to the Navy closure impacting the 111th Fighter Wing, Pennsylvania Air National Guard (ANG), at Naval Air Station Joint Reserve Base (NAS JRB) Willow Grove.

I certify that the information contained herein is accurate and complete to the best of my knowledge and belief. If you have any questions, feel free to contact me.

Approved



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



Willow Grove -
Rendell ltr.pdf...

ENCLOSURE 3



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF THE GOVERNOR
HARRISBURG

THE GOVERNOR

May 26, 2005

The Honorable Donald H. Rumsfeld
Secretary of Defense
The Pentagon
1155 Defense Pentagon
Arlington, VA 20301

Dear Secretary Rumsfeld:

The Department of Defense recommendations for the 2005 Base Realignment and Closure (BRAC) process included a recommendation to deactivate the 111th Fighter Wing, Pennsylvania Air National Guard, Willow Grove Air Reserve Station.

I am writing to advise you officially that, as Governor of the Commonwealth of Pennsylvania, I do not consent to the deactivation, relocation, or withdrawal of the 111th Fighter Wing.

The recommended deactivation of the 111th Fighter Wing has not been coordinated with me, my Adjutant General, or members of her staff. No one in authority in the Pennsylvania Air National Guard was consulted or even briefed about this recommended action before it was announced publicly.

The recommended deactivation of the 111th Fighter Wing appears to be the result of a seriously flawed process that has completely overlooked the important role of the states with regard to their Air National Guard units.

Sincerely,

Edward G. Rendell
Governor

Cc: The Honorable Anthony J. Principi
The Honorable Arlen Specter
The Honorable Rick Santorum
The Honorable Allyson Schwartz
The Honorable Michael Fitzpatrick

30 June 2005

Inquiry Response

Re: BI-0099 - ANG aircraft acquired through congressional add

Requester: BRAC Commission

Question:

Request the following information with respect to Air National Guard aircraft that were purchased over the past 20 years with congressional add money. Specifically, we need the type aircraft, tail number, location, date received by gaining unit, source of funding (FY, appropriation, etc). Please forward this information NLT than 31 Jun 05 as it supports a commission event.

Answer:

The requested information is provided in the attachment (4 pages). This information was provided by the National Guard Bureau.

Approved



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

ENCLOSURE 4

**ANG New Aircraft
Aquisitions Through Congressional Adds 1985-2005**

Type Aircraft	Unit Received	Date Received	Tail #	Total
F-16 Blk 52	189 FW, McEntire ANGB, SC	1995	92003902	16
		1995	92003903	
		1995	92003905	
		1995	92003909	
		1995	92003911	
		1995	92003914	
		1995	92003916	
		1995	92003917	
		1995	92003922	
		1995	93000531	
		1995	93000533	
		1995	93000535	
		1995	93000537	
		1995	93000539	
		1995	93000543	
	<u>1995</u>	<u>93000549</u>		
C-17A: 8 aircraft	172 AW, Jackson, MS	18-Dec-03	2001112	8
		12-Jan-04	3003113	
		30-Jan-04	3003114	
		17-Feb-04	3003115	
		9-Mar-04	3003116	
		31-Mar-04	3003117	
		18-Apr-04	3003118	
		<u>12-May-04</u>	<u>3003119</u>	
C-21A <i>note: Historian shows 4 acquired, however only 2 currently in inventory</i>	200 ALF SQ, Peterson , CO	Dec 86 to Aug 87	86000374	2
			86000377	

**ANG New Aircraft
Aquisitions Through Congressional Adds 1985-2005**

Type Aircraft	Unit Received	Date Received	Tail #	Total
C-130H <i>note: Historian shows 14 to Nashville, but programatically can only account for 12</i>	118 TAW, Nashville, TN	FY90	89001051	12
			89001052	
			89001053	
			89001054	
			89001181	
			89001182	
			89001183	
			89001184	
			89001185	
			89001186	
			89001187	
			89001188	
			123 AW, Louisville, KY	
91001232				
91001233				
91001234				
91001235				
91001236				
91001237				
91001238				
91001239				
91001651				
91001652				
91001653				
145 AW, Charolette NC		FY94-95	92001451	
			92001452	
			92001453	
			92001454	
			93001455	
			93001456	
			93001457	
			93001458	
			93001459	
			93001561	
			93001562	
			93001563	

**ANG New Aircraft
Aquisitions Through Congressional Adds 1985-2005**

Type Aircraft	Unit Received	Date Received	Tail #	Total
C-130H	153 AW, Cheyenne, WY	FY94-95	92001531	8
			92001532	
			92001533	
			92001534	
			92001535	
			92001536	
			92001537	
			92001538	
	167 AW, EWWRA Shepherd, WV	FY94-95	94006701	12
			94006702	
			94006703	
			94006704	
			94006705	
			94006706	
94006707				
94006708				
95006709				
95006710				
95006711				
95006712				
C-26A	124WG, Boise ID	FY90		11
			147FW Ellington AFB TX	
			144FW, Fresno CA	
			186ARW, Meridian MS (KEY FIELD)	
			182AW, Peoria, IL	
			111FW, Willow Grove NAS PA	
			122FW, Ft Wayne, IN	
			192FW, Richmond VA (BYRD FLD)	
			131FW, St Louis, MO (LAMBERT)	
			142FW, Portland OR	
			121ARW, Rickenbacker OH	
MH-60G	176ARW, Kulis ANGB, AK	FY90	92026466	6
			92026467	
			92026469	
			92026470	
			92026471	
			92026472	
	106 RSQ WG, Suffolk, NY	FY90	88026108	6
			88026111	
			88026112	
			88026113	
129 RSQ WG, Moffett Fld, CA	FY90	88026114	6	
		92026468		
		88026106		
		88026107		
		88026115		
		88026118		
88026119				
88026120				

note: C-26As are no longer
in the ANG inventory

note: Historian shows 4:
programmatically shows 6

**ANG New Aircraft
Aquisitions Through Congressional Adds 1985-2005**

Type Aircraft	Unit Received	Date Received	Tail #	Total
C-26B <i>note: Historian shows 14, programmatically shows 11</i>	187 FW, Dannelly Fld, AL	FY92	91000504	
	147FW, Ellington, TX		94000265	
	141 ARW, Fairchild, WA		94000260	
	144 FW, Fresno, CA		94000262	
	125 FW, Jacksonville, FL		90000529	
	186 ARW, Meridian, MS		92000369	
	150 FW, Kirtland, NM		92000373	
	109 ALF WG, Schenectady, NY		92000372	
	115 FW, Truax, WI		94000261	
	162 FW, Tucson, AZ		94000264	
			94000263	11
	C-38A	201 ALF SQ, Andrews AFB, MD		94001569
			94001570	2
C-130J <i>note: Historian shows 8, programmatically shows 9</i>	175 WGH WG, Baltimore, MD		97001351	
			97001352	
			97001353	
			97001354	
			98001355	
			98001356	
			98001357	
			98001358	
			98001932	9
	146 ALF WG, Channel Islands, CA		1001461	
			1001462	
			2001483	
		2001464	4	
143 ALF WG, Quonset State, RI		2001434		
		99001431		
		99001432		
		99001433	4	
EC-130J	193 SOP WG, Harrisburg, PA		1934	
			96008154	
			97001931	
			98001932	
			99001933	4
TOTAL AIRCRAFT:				145

*Note: C-12J - acquired 6
from 87 to 88, (no longer in
inventory)*

REVIEW OF AIR FORCE BASE CLOSURE EXECUTIVE GROUP (BCEG) AND BRAC “RED TEAM” MINUTES

Background: BCEG meeting minutes and comments from the BRAC Red Team¹ have been reviewed. This document describes issues which affect in a global sense the recommendations concerning the Air National Guard (ANG.) The impact to the Guard is significant. Of the 70 ANG installations in the country, 56 are affected by closure or realignment. Flying missions are eliminated at 26 ANG installations. Footnotes will elaborate on key topics.

(The issues will be presented in chronological order. “BCEG” or “RT” after the date denotes the source of the product. Times New Roman font indicates exact quotes from the minutes.)

31 Jan 05 - RT - BRAC Red Team Kickoff Meeting

The purpose of this meeting was to ensure that the charter, work products, and schedule for the group were understood by all.

22 Feb 05 - BCEG - Minutes

Discussion within the BCEG about “**potential for Future Total Force² initiatives using ANG assets** realigned under BRAC 2005.”

25 Feb 05 - RT - BRAC Red Team Discussion Topics

This was the Red Team review of all DoD BRAC work performed up to this point.

Key points follow:

¹ **Red Team Purpose:** In the latter stages of the DoD BRAC development, the Department engaged a small group of executive-level former government officials. Called the “Red Team,” this group was asked to provide an independent assessment of candidate recommendations. The Red Team met with each Military Department and JCSG. It reviewed candidate recommendations, report drafts, and supporting materials. The team’s insights provided valuable feedback and suggestions for improving the quality of the candidate recommendation packages relative to the standard by which the Commission may alter the Secretary’s recommendations.

² **Future Total Force (FTF):** The published objective of FTF is “to produce a smaller, more capable, more affordable Air Force composed of Active, Guard, and Reserve Airmen by recapitalizing the force and changing organizational constructs in a way that defends, deters, and defeats every adversary in any future challenge.”

Military Judgment - The Red Team said that all services should clearly explain military judgment when used to override military value. They noted at that time the frequent use of military judgment in overriding military value. The Red Team also wanted more guidance on what Military Judgment includes.

Weights determining Military Value - The Red Team noted that the weights³ determining Military Value are inconsistent - that they mix function value with installation value.

Consolidations with long paybacks - The Red Team said the following:

“Many consolidations have long paybacks and high MILCON requirements for new construction with weak justifications for receiving site selection and clear exclusion of other service potential receiving site consideration.

- o A payback of Never or 100+ years without a very strong argument/justification will threaten the credibility of the BRAC process.
- o Many realignments lack ties to force structure requirements or military value improvement and appear to only justify new MILCON.”

8 Mar 05 - BCEG - Minutes

This is the first reference found on the issue of **Manpower Savings**. A “given” going into BRAC was that net end strength for the ANG would remain the same. Thus it would be inappropriate to claim manpower savings through the realignments and closures. The recent **GAO Report**⁴ also has much to say on this issue.

³ **Weights and the MCI:** The Air Force developed what is known as a Mission Capability Index (MCI). The MCI was applied to each of the 154 bases in the Air Force inventory. Each base was evaluated based on a system considering the potential use of various weapon systems in mission categories such as tanker, fighter, bomber, airlift, etc. and weighted accordingly. Unlike the way the other services treated their reserve components with respect to BRAC... active, guard and reserve bases were all evaluated using the same criteria. The criteria favored larger bases. Several points are to be made here concerning the ANG. 1) ANG installations operate under National Guard Bureau (NGB) caps concerning ramp size, building square footage, acreage and the like. They are inherently “right-sized.” 2) Some of the questions dealing with airspace, routes and ranges are simply not appropriate to the way we train and fight today. 3) The questions had seemingly arbitrary thresholds and allowed for little differentiation between the smaller sized installations.

⁴ **GAO Report:** This July 2005 report from the GAO noted that the majority of the net annual recurring savings (60 percent) are cost avoidances from military personnel eliminations. The report further states “However, eliminations are not

The following is a quote from the BCEG minutes:

(Pease) “back-briefed the 4 March 2005 ISG. He raised the issue of whether manpower nominally assigned to Base X should be counted under BRAC as savings for reinvestment. He noted the ISG assigns manpower savings on active forces as available for reinvestment.”

9 Mar 05 - RT - First Meeting of the Red Team with the Air Force BCEG

This meeting began with a review of the Air Force goals:

“ • BRAC 2005 Goals were to maximize warfighting capability by **optimizing squadron size**⁵, **increasing crew ratios**⁶ and **adjusting Active/ARC mix**⁷, to realign infrastructure to meet future defense strategy by **sustaining air superiority and air sovereignty**⁸ and accomplishing mobility basing, to maximize operational capability by eliminating excess capacity, and to capitalize on joint activity opportunities.”

The following are questions from the Red Team followed by answers from the BCEG:

- “ • Why is 24 the optimal squadron size for fighters? (Salomon)
- Is the Guard on board?⁹ *Absolutely, we are freeing up manpower for new roles.*

expected to result in reductions to active duty, Air reserve, and Air National Guard end strengths, limiting savings available for other purposes.”

⁵ **Optimal Squadron Size:** There are apparently reports on this issue that the BRAC staff has not yet seen. The ANG units in the field do not think that the optimal number of aircraft in a squadron is the same for the ANG as compared to the active component.

⁶ **Crew Ratios:** The Air Force wants more access to ANG aircraft for active duty crews. In their BRAC proposal, this is being achieved by two ways. One way is to transfer ANG assigned aircraft to active units. The other way is to establish more associate units in which active personnel are assigned to Guard bases.

⁷ **Active/ARC Mix:** In a meeting with the BCEG co-chairs on 1 Jul 05, BRAC staff were told that the mix of the C-130 fleet was changing from 31% of the fleet Active to 43% of the balance Active after BRAC.

⁸ **Air Defense:** It is unclear to the BRAC staff what degree of knowledge NORTHCOM had about the final Air Force BRAC recommendation. Units in the field have raised concerns that the current proposal has significant risks.

⁹ **Is the Guard on Board?:** There was an ANG general officer on the BCEG. He was a representative of the National Guard Bureau (NGB). According to the Adjutants General, they had little to no knowledge of the plans being developed. The Governor’s likewise were not consulted. They have claimed these plans will seriously hamper heir capability to perform the State mission of the ANG. On 1

(Johnson)

- Why leave numerous ECS enclaves?¹⁰ *The ECS units are tasked separately from the fighter squadron and don't go with the mission. They provide general support – CSS.*

(Johnson)

- How do you define realignment? *If more than one-third of non-mission personnel is left, then it is a realignment. If remaining non-mission personnel is less than one-third, then that is considered an enclave. Did you excess the rest of the base? Yes, and reducing the footprint sometimes created a cost.*¹¹ (Johnson)
- The Red Team has found it difficult to track goals, principles, imperatives, strategies, etc. and the application of military judgment. Be prepared to describe the dependencies or interrelationships between goals, principles, your strategy, and your military judgment. The candidate recommendations are supposed to be strategy-drive, data-verified and this needs to be apparent in your presentation and articulation.
- The decision process needs to be well documented and when you present to the Commission, you should have a chart that explicitly demonstrates how decisions were made.
- Make a chart that displays and rationalizes (with data support) optimum squadron sizes. For those recommendations where you do not reach the stated optimum, you need to explain why not in your justification. Failing to give such an explanation undermines your entire process.
- Numerous candidate recommendations, like the sample on Slide 38, used the justification that the action “enables future total force transformation”. This requires further explanation.
- May want to incorporate a before and after type slide into presentation that demonstrates which bases have new types of planes, which is significant from a maintenance perspective.¹²

Jul, BCEG officials told BRAC staff that the Department of Homeland Security (DHS) likewise was not consulted or informed.

¹⁰ **Enclave:** This is a new term which describes an ANG base which no longer has a flying mission. This enclave sustains the remnant of a unit consisting of what is known as “**Expeditionary Combat Support**” or **ECS**. These are the security forces, engineers, and other support personnel who may be called upon to deploy to support Air Expeditionary Forces or AEFs.

¹¹ **Reducing the Footprint:** When asked what they knew about this proposal in the field, installation commanders had no knowledge other than the fact that NGB staff were visiting to verify dimensions of buildings and land. It was unclear what was meant by expressions such as “pulling back the fence line.”

- Create a backup chart that demonstrates how many pilots are affected by C-130 movements (Slide 45), how many pilots are assigned to a new base and how many have a new mission.¹³
- Review recommendations with large MILCON and “Never” paybacks.
- The purpose of BRAC is to reduce excess capacity. Strengthen rational and justification of all recommendations by explicitly linking actions to the Air Force’s overall strategy, to the Force Structure Plan, and/or to BRAC Selection Criteria. This is necessary to avoid the appearance of using BRAC money for new MILCON to get Air Force situated and to overcome the Commission’s potential hostility surfacing from small political actions.¹⁴
- Many of the recommendations include leaving expeditionary combat support (ECS) elements in an enclave. For many of them, they cite the need to “retain intellectual capital” as the justification for retaining an enclave. We need an explanation as to why these elements cannot be moved allowing for a total base closure. Especially as in the case of USAF-0033V2 (Slide 66) – where receiving location is 12 miles from losing location, and yet, an enclave is left behind.
- For those recommendations that involve the movement of aircraft from an installation with a high military value to one with a lower military value (e.g. USAF-0037 – Slide 72), we need a better explanation as to why this movement fits into the overall strategy. If “military judgment” was used, we need to know which aspect of military judgment.

¹² **Dissimilar Aircraft Types:** Consideration apparently was given to F-16 “Block” types although some units took exception here. Other units noted the consolidation of various types of aircraft with more subtle differences. For example, F-15s have two different types of engines and C-130 H2s and C-130 H3s have different maintenance and flight crew requirements.

¹³ **Pilot and Maintenance Personnel Retention:** Information from the field suggests that the impact on retaining trained personnel will be huge. Many say less than 20% of flight crews will follow the aircraft and even fewer maintenance personnel will. A Clearinghouse question is being answered now on exactly what cost estimates were used in COBRA models for this. This anticipated loss of seasoned and experienced personnel will place a significant demand on training schools. The time required to train these new personnel will likely degrade combat capability of the unit for some time.

¹⁴ **MILCON:** Base officials and political office holders have taken pains to note the significant MILCON being completed or recently completed at many of the bases visited. An example is a \$24M hanger at Nashville, TN. In the final stages of construction, it won an Air Force excellence award for its innovation.

- Be careful when stringing recommendations together – commission will look at the recommendations individually.¹⁵
- Need to solidify/disentangle your strategy, goals, imperatives, and principles. Statements on the bottom of Slides 3 and 11 really seem to be your strategy – as opposed to the reduction of capacity or to save money. If this is true, Slides 48 and 49 are irrelevant as your stated goal was not to save money.
- Military value analysis is distinct from all other groups who determined military value by mission or function of an installation. USAF appears to do military value analysis by warfighting platform rather than by installation mission or function. Since military value is not based on installation value in support of the total force structure, there are several military values for a base depending on which platform one is using.
- Several of the recommendations include the movement of aircraft¹⁶ that seem to be tangentially related (at best) to the core of the recommendation. Why are these movements rolled up as part of a candidate recommendation? Can't they be done outside of the BRAC process?
- For the most part, the AF candidate recommendations seemingly do not involve the disposal of property. If property is excessed, it needs to be apparent in quad charts or at least in the one-page recommendation description. If property is not excessed, why not?
- USAF-0039: The wing is inactivating and all the aircraft are retiring, but there is MILCON, why? Why do the ECS elements remain? Why are Sioux Falls, SD and Gulfport-Biloxi, MS part of the community impact sheet when there is no mention of anything moving from/to those locations?
- USAF-0081: Review the legality¹⁷ of “realigning in place”.
- USAF-0086: What is the real rationale for moving out a ANG wing, and then transferring its aircraft to another wing at the same base? “Enables Future Total Force Transformation” is insufficient justification.”

¹⁵ **Stringing Recommendations Together:** These notes show how candidate recommendations were combined so that a closure saving a significant sum of money would carry other recommendations which on their own saved very little or were actually costs.

¹⁶ **Movement of Aircraft:** Many have noted that the Air Force recommendations are mainly about moving aircraft and not reducing excess infrastructure. The process of moving aircraft can be done in a “**Programmatic**” venue and does not need BRAC authority to accomplish it.

¹⁷ **Legality of Recommendations:** Certainly Governors, Legislators and even BRAC Counsel have noted legal concerns about the Air Force recommendations.

10 Mar 05 - BCEG - Minutes

Another discussion of **Manpower Savings**. Quote from minutes follows:

“Mr. Jordan briefed Manpower Savings and Reinvestment for information. (Slides 105-112) He noted the overall need for consistency in the categorization of manpower (slide 112)”

In this same meeting, it became evident that the BCEG was determined to do some realignments and closures even though standing alone they were a cost instead of a savings. A quote from the 10 Mar 05 meeting follows:

“Mr. Pease presented, for information, a strawman business model to justify non-payback Candidate Recommendations (Slides 138-142)”

As of 10 MARCH **32** closures or realignments were actually 20-year NPV **COSTS**. They included:

BRADLEY
PITTSBURGH
BEALE
CAPITAL
MARCH
ELMEDORF
WILLOW GROVE
RICKENBACKER
ROBINS
KEY FIELD
SPRINGFIELD-BECKLEY
NEW CASTLE
YEAGER
RENO
NASHVILLE
EGLIN
PORTLAND
SCHENECTADY
INDIAN SPRINGS
BIRMINGHAM
ANDREWS
DOVER
SELFRIDGE
LAMBERT
NEW ORLEANS
SEYMOUR JOHNSON
MOUNTAIN HOME
KULIS

HILL
LUIS MUNOZ
HANCOCK
AND MAXWELL.

14 Mar 05 - RT - Red Team Discussion Topics
The following quotes speak for themselves:

“ • Definitions

○ Enclaves – Size of enclaves differ. How small is small? (AF ECS-Expeditionary Combat Support units)

• Consistency of Approach

○ There is no consistency in approach taken in military value analysis.

Overall, some groups imbed military judgment within the military value calculation, while others apply military judgment to the results of military value calculation (i.e. – *ex ante* vs. *ex post* application of military judgment.)

USAF does military value analysis by platform rather than by installation mission or function. Since military value is not based on installation value for support of total force structure, there are several military values for a base depending on which platform one is examining. USAF would have been more consistent by using installation functions and/or missions.

○ There is no consistency in approach taken in capacity analysis.

USAF defines capacity based on the difference between actual squadron size and optimum squadron size.

Possible Actions:

• Definitions

○ Send out common definition of an enclave and limit the size without higher approval. The groups need to have a benchmark such as “less than 31 people” to help them define small.

• Differing Approaches

○ Capacity Analysis – carefully review Air Force use of capacity analysis and ensure it is converted to mission or function support capacity.

○ Transformational Options

Either decide on a formal list and publish it or take them off the table and direct groups to stop citing them.

29 Mar 05 - BCEG - Minutes

It is still clear that at this point that the BCEG was determined to do certain Candidate Recommendations (CRs) even though they offered only costs or little savings. This is a quote from that meeting:

“Pease back-briefed the 28 March IEC meeting. He noted sister service candidate recommendations costed as longer payback were inferred as undesirable.” (Heckman) “noted that candidate recommendations with no, or long payback should be rejustified with a clear statement providing a nexus to enable the candidate recommendations.”

31 Mar 05 - BCEG - Minutes

BCEG correctly recognized there is some distinction between programmatic and non-programmatic. See the following quote:

“Pease discussed manpower as non-programmatic BRAC action vs. programmatic regarding computation of savings (Slide 14). Note that references to deactivation of ANG wings are to be deleted, as BRAC is not relevant to the ultimate disposition of ANG wings.”

This is another example in the same minutes:

“Upon deliberation, the Rickenbacker Realignment was cancelled due to it being a purely programmatic vice BRAC action.”

6 Apr 05 - RT - BRAC Red Team Meeting with Infrastructure Executive Council

“ • Potential Weaknesses

- Many candidate recommendations do not need BRAC authority to implement
 - All candidate recommendations that have payback periods greater than 20 years could be considered substantially deviating from the final selection criteria in that the COBRA model only evaluates up to 20 years”
-

7 Apr 05 - BCEG - Minutes

The decision was apparently made by the BCEG at this point to reverse their earlier position regarding manpower savings and to show it in the COBRA. The quote from the minutes follows:

“The BCEG discussed principles for the reexamination of scenarios. The BCEG noted that Base X savings results should be analyzed to capture cost savings. Manpower must follow iron in Active, Reserve, and Guard components.”

18 Apr 05 - RT - BRAC Red Team White Paper
Comments speak for themselves:

“**Main Issues to Discuss:**

- The BRAC Red Team believes the Air Force presentations give the perception that in many cases the Air Force is using BRAC only to move aircraft and gain MILCON funding rather than reducing excess infrastructure.

Causes of the Perception:

- Air Force goals for BRAC 2005 appear to focus on operational requirements rather

than reduction of excess infrastructure capacity under the BRAC Law.

- Military value analysis has uniquely been done by platform as opposed to by installation or supporting function—which results in multiple military values for the same installation and the need to override military value results.
 - Military capacity has been redefined to be the difference between current and optimum squadron sizes rather than functional support capabilities.
 - Proposals appear to use BRAC to determine where FYDP aircraft changes should be implemented and use BRAC funds to make the changes without including associated savings under BRAC.
 - Many of the aircraft changes are already reflected in the FYDP and any resulting savings have been taken.
 - BRAC actions should result in savings in installation and personnel costs.
 - As currently reflected, most Air Force actions do not result in savings and do not require the BRAC provisions.
- Proposals show personnel position savings while allegedly not reducing overall end strength.
 - Even though number of aircraft is coming down, Expeditionary Combat Support (ECS) groups are left almost everywhere with no defined mission.
 - Perception supported by answers to questions: ECS groups are used to maintain “end strength” in search of missions.
 - In many cases, military value is being overridden by Air Sovereignty Alert requirements, Active Reserve Component (ARC) mix, and recruiting demographics¹⁸—need to show how these are tied to the Force Structure Plan and/or the Final Selection Criteria.

Potential Solutions:

- Given that each installation has multiple military value rankings, it is imperative that recommendations that are inconsistent with the ranking of installations for the platform in question be fully justified.
- The underlying rationales for the Air Force’s method of determining military value and capacity (including optimal squadron sizes) need to be carefully articulated and well supported.

¹⁸ **Recruiting Impacts:** Units being closed or realigned note two key points in this regard. First, some of the units slated for reductions have over 100% actual strength. They have good demographics for recruiting. Secondly, a strength of having 88 dispersed flying units in the ANG is the related “hometown connection” and associated support of the **Abram’s Doctrine**. The Abram’s Doctrine philosophically strengthens the Total Force Policy, ensuring national resolve in a conflict.

- If the moves are accomplished under BRAC, all savings and costs must be reflected under BRAC—other mission and personnel requirements should be paid for outside BRAC (can use BRAC savings).
- Provide better explanation of the role of Expeditionary Combat Support (ECS) units.
 - All savings must be part of BRAC—savings can then be applied to other missions.
- Recommendations citing maintenance of ARC mix need to be supported by documentation that explains why the ARC mix is important and how maintaining the proper mix supports the Force Structure Plan and/or Final Selection Criteria.”

18 Apr 05 - RT - Second Meeting of the Red Team with the Air Force BCEG
Again, Comments speak for themselves:

“ • USAF had not originally taken savings for people in the same way the other groups and services were, but we have since gone back and recalculated savings associated with manpower and personnel to be more consistent with the other groups.

Questions that arose:

- You have a lot of “Red” in the Northeast – losing sites or bases being closed – have you discussed this with NORTHCOM? *Absolutely, NORTHCOM is on board.*

Informal observations provided at briefing:

- Be careful when discussing people vs. billet savings vs. authorized positions. If you take savings for eliminated billets or authorized positions, should show that these positions go off the books or reprogrammed.
- “AF Goals for BRAC 2005” are not obviously linked to DoD BRAC goals (Slide 2).
- BRAC is about reducing excess capacity – your AF Installation map will look about the same after BRAC, which will open you and DoD up to criticisms.
- Explain up front that you are using BRAC to determine action for aircraft disposal in compliance with the Force Structure Plan. However, aircraft retirements really do not need to be BRAC actions.
- You want to make sure that you are not moving from installations with higher military value to lower ranked installations.¹⁹ Given that each installation has multiple military value rankings, it is imperative that recommendations that are inconsistent with the ranking of installations for the platform in question be fully justified.

¹⁹ **Military Value and MCI Rankings:** Even with the flaws of the MCI ratings, in some cases, decisions were made to plus up bases with lower rankings for questionable reasons.

- The underlying rationales for the Air Force’s method of determining military value and capacity (including optimal squadron sizes) need to be carefully articulated and well supported.

- Expeditionary Combat Support (ECS)
 - Need chart explaining
 - what functions or MOSs ECSs cover,
 - how an ECS is allocated,
 - when they deploy,
 - what mission the ECS is charged with,
 - how ECSs support Homeland Defense,
 - and explains why DoD needs to have ECSs at numerous bases.
 - If these are already programmed changes – why are they being done under BRAC? Need to explain up front that Military Value analysis done in BRAC aides the determination of where programmed reductions in aircraft occur. But also need an explanation for why people reductions are not occurring under BRAC.

- Air Sovereignty Alert (ASA)
 - Explain what the ASA sites are and why BRAC is required to make changes—why are they a new mission?
 - Create a chart that lays out the requirements for coverage.
 - Ensure that NORTHCOM agrees with sites and are on the same page.

- Recommendations citing more suitable recruiting demographics in one location over another need to be linked to a supporting document with recruiting data across all installations.

- Recommendations using maintenance of ARC mix need to be supported by documentation that explains why the ARC mix is important and how maintaining the proper mix supports the Force Structure Plan or Final Selection Criteria.

- “Capturing Intellectual Capital” is unusual terminology, use more descriptive wording.

Additional observations to consider:

- Should have a reason for why USAF is not reducing end strength as part of BRAC.

- Ensure that savings for FYDP actions completed as part of BRAC are accounted for in accordance with the BRAC statute and/or OSD policy.”

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This again shows how the BCEG combined closures and realignments in such a way as to allow the big savers to compensate for the ones which on their own were NPV 20-year costs to the DoD. The quote follows:

“All Air Force Candidate Recommendations need to be complete by 1200 On April 29. The IEB staff is directed to complete remaining business cases for the “losers” with losers defined as candidate recommendations that fail to generate net present value cost savings within the BRAC timeframe.”

As an example, in the minutes it was shown how Ft Smith, AR and Luke AFB were “bundled” together to produce net savings. The justification was “common receiver location (Fresno).”

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Memorandum

July 6, 2005

**SUBJECT: Base Realignment and Closure of National Guard Facilities:
Application of 10 U.S.C. § 18238 and 32 U.S.C. § 104(c)**

FROM: Aaron M. Flynn
Legislative Attorney
American Law Division

The Defense Base Closure and Realignment Act of 1990¹ has been amended to authorize a new round of base realignment and closure (BRAC) actions in 2005. Consistent with the law, the Department of Defense (DOD) has prepared a list of candidate military installations for closure or realignment actions. Among these installations are several Air National Guard and Army National Guard facilities. Two provisions of law, 10 U.S.C. § 18238 and 32 U.S.C. § 104(c), have been seen as impediments to BRAC actions at these facilities. The application of these provisions to the BRAC process is the subject of this memorandum.

BRAC Background

The Defense Base Closure and Realignment Act provides a finely wrought procedure for analyzing and carrying out BRAC actions and governs the current BRAC round. In general, the Secretary of Defense is required to prepare a force-structure plan and an inventory of existing military installations.² The Secretary is required to review this information and, based on statutorily prescribed selection criteria, create a list of sites recommended for realignment or closure.³

¹ Defense Base Closure & Realignment Act of 1990, Pub. L. No. 101-510, § 2905; *see also* Pub. L. No. 107-107, § 3006 (current version at 10 U.S.C. § 2687 note.) For ease of reference, all citations to the 1990 Act are to the relevant sections of the Act as it appears in note following 10 U.S.C. § 2687.

² Base Closure Act, §§ 2912; 2913; *see generally* Military Base Closures: Implementing the 2005 Round, CRS Rept. RL32216 (March 17, 2005).

³ Base Closure Act, §§ 2903(c); 2914.

Next, the independent BRAC Commission must review the DOD list.⁴ After following mandated procedures, the Commission can alter the recommendations of the Secretary if the Secretary's proposal deviates substantially from the force-structure plan and selection criteria.⁵ The Commission must then transmit its recommendations, along with a report explaining any changes to the DOD choices, to the President for his review.⁶

The President may review the recommendations and then transmit to the Commission his report either accepting or rejecting, in whole or in part, the Commission's recommendations.⁷ If the President disapproves the recommendations, the Commission must then submit a revised recommendation to the President for his consideration.⁸

If the President approves all of the recommended sites, he may transmit a copy of the list to Congress.⁹ If the President does not send this list to Congress by November 7, 2005, the base closure process terminates.¹⁰

Finally, the process may be terminated by a joint resolution of disapproval passed within 45 days after the President transmits the list of recommendations.¹¹ As a matter of course, this congressional action would be subject to a presidential veto and the ordinary requirements for overriding a veto. If Congress does not act, the Secretary of Defense may then proceed to implement the recommendations.

National Guard Background

The National Guard is the modern incarnation of the militia referred to in the Constitution.¹² The Constitution provides for both a state and federal role in controlling the militia.¹³ Congress is empowered to "provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions; [t]o provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States"¹⁴ The Constitution also reserves to the

⁴ *Id.* §§ 2903(d); 2914(d).

⁵ *Id.* §§ 2903(d)(2)(B); 2914(d)(3). Additional requirements are applicable if the Commission proposes to add or expand a closure or realignment.

⁶ *Id.* §§ 2903(d)(2)(A), (d)(3); 2914(e).

⁷ *Id.* §§ 2903(e)(1)-(3); 2914(e).

⁸ *Id.* §§ 2903(e)(3); 2914(e)(1), (2).

⁹ *Id.* §§ 2903(e)(4); 2914(e)(4).

¹⁰ *Id.* § 2914(e)(3).

¹¹ *Id.* § 2904(b).

¹² *See* *Lipscomb v. Federal Labor Relations Authority*, 333 F.3d 611, 613 (5th Cir. 2003).

¹³ *Perpich v. Dep't of Defense*, 496 U.S. 334, 350-52 (1990) (discussing the role of the federal and state governments in regulating the National Guard).

¹⁴ U.S. Const. Art. 1, § 8, cl. 15, 16.

States “the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress....”¹⁵

By federal statute, the Guard has also become a reserve component in the United States Armed Forces. Specifically, federally recognized Guard units are part of the Air National Guard of the United States or Army National Guard of the United States.¹⁶

Pursuant to federal law, all fifty states (as well as U.S. territories, Puerto Rico, and the District of Columbia) maintain units of the National Guard.¹⁷ Under the laws of all of the states, the Governor acts as commander-in-chief, with state authority over the Guard remaining until Congress, consistent with the Constitution, exercises its authority in a manner to preempt the state regulatory role.¹⁸

Section 18238

10 U.S.C. § 18238 has been cited as a potential impediment to BRAC activities. That provision of law states:

[a] unit of the Army National Guard of the United States or the Air National Guard of the United States may not be relocated or withdrawn under this chapter without the consent of the governor of the State or, in the case of the District of Columbia, the commanding general of the National Guard of the District of Columbia.

Thus, the question is whether a state Governor (or the commanding general of the National Guard of D.C.) would have the authority to prevent a BRAC action to the extent that it would result in the relocation or withdrawal of a National Guard unit. It appears, however, that the applicability of 10 U.S.C. § 18238 would be somewhat more limited.

The provision itself references relocations or withdrawals made “under this chapter.” The phrase “this chapter” is an apparent reference to Chapter 1803 of title 10, which governs facilities for Reserve components and includes 10 U.S.C. §§ 18231-18239. These authorities were originally enacted as the National Defense Facilities Act of 1950, and despite subsequent revision, remain substantially similar to their original form.¹⁹ As described in 10 U.S.C. § 18231, the purpose of these provisions is to provide for “the acquisition, by purchase, lease, transfer, construction, expansion, rehabilitation, or conversion of facilities necessary for the proper development, training, operation, and maintenance of the reserve components of the armed forces”²⁰ Accordingly, these provisions authorize the Secretary of Defense to acquire facilities for use by Reserve components. Incidental to this authority is an authorization to transfer title to property acquired under § 18233(a)(1) to a state, so long

¹⁵ U.S. Const. Art. ,1 § 8, cl. 16.

¹⁶ 10 U.S.C. §§ 261(a)(1), (5).

¹⁷ 32 U.S.C. § 104 (a).

¹⁸ *See, e.g.*, MINN. CONST. art. 5, § 3; N.C. CONST. art. XII, § 1; PA. CONST. art. IV, § 7; VA. CODE ANN. § 44-8; *see also* *People ex rel. Leo v. Hill*, 126 N.Y. 497, 504 (N.Y. 1891); *Bianco v. Austin*, 197 N.Y.S. 328, 330 (N.Y. App. Div. 1922).

¹⁹ *See* Act of Sept. 11, 1950, c. 945, 64 Stat. 830.

²⁰ 10 U.S.C. § 18231(1); *see also* H.R. CONF. REP. NO. 3026, 81st Cong. (1950), *reprinted in* 1950 U.S.C.C.A.N. 3705.

as such transfer is incidental to the expansion, rehabilitation, or conversion of the property for joint use by two or more Reserve components.²¹ Thus, it is certainly conceivable that acquisition of new facilities and, potentially, the transfer of properties could result in relocation of particular units of the National Guard.²² Thus, in circumstances where transfer of units would occur in connection with the exercise of these authorities, 10 U.S.C. § 18238 would apply.

The law governing BRAC activities is codified at 10 U.S.C. § 2687 note. These authorities are contained in chapter 155 of Title 10 and are not related to the chapter of the code containing § 18238 nor to the law which originally contained § 18238. Thus, it would appear that the chapter 1803 provision limiting authority to relocate Army and Air National Guard units would, by its own terms, not serve as a limitation on actions taken pursuant to BRAC-related law.

It should be noted that the Defense Base Closure and Realignment Act does not specifically address 10 U.S.C. § 18238. If, however, a court were to determine that this provision was intended to apply to relocations resulting from the exercise of authorities outside of chapter 1803 of the United States Code, the enactment of the Defense Base Closure and Realignment Act could be interpreted as an implicit repeal of the § 18238 limitation. The arguments in this regard are discussed, *infra* pages 8-10, following the section analyzing the language contained in 32 U.S.C. § 104(c).

Section 104(c)

Whether 32 U.S.C. § 104(c) places a limitation on the authority of DOD and the BRAC Commission to recommend or take BRAC-related actions at National Guard facilities hinges upon the answers to several questions. It is first necessary to determine the scope of the provision in order to ascertain whether Congress intended it to apply to actions precipitated by BRAC decisions. This inquiry into the language and legislative history of the provision itself is followed by a separate section analyzing whether Congress amended or repealed any applicable limitation on federal authority to close or realign National Guard facilities by enacting the Defense Base Closure and Realignment Act.

In general, 32 U.S.C. § 104 provides that each “State or Territory and Puerto Rico may fix the location of the units and headquarters of its National Guard.” It also prescribes, pursuant to Congress’ constitutional authority, the general organization of the Guard and the composition of Guard units. Relevant to the present inquiry, subsection (c) states:

To secure a force the units of which when combined will form complete higher tactical units, the President may designate the units of the National Guard, by branch of the Army or organization of the Air Force, to be maintained in each State and Territory, Puerto

²¹ 10 U.S.C. § 18233(b), (a)(2).

²² It would not appear that 10 U.S.C. § 18238 would limit its gubernatorial approval requirement to relocations or withdrawals that would result in transfer of Air National Guard and Army National Guard units to locations outside of a state. Indeed, the provision as originally enacted clearly indicated that approval would be required for unit movements “from any community or area” National Defense Facilities Act of 1950, c. 945, § 4, 64 Stat. 830 (1950). These words were subsequently deleted as surplusage. *See* Act of Aug. 10, 1956, c. 1041, 70A Stat. 123; House and Senate Reports to accompany H.R. 7049, *available at* 1956 U.S.C.C.A.N. 4613.

Rico, and the District of Columbia. *However, no change in the branch, organization, or allotment of a unit located entirely within a State may be made without the approval of its governor.*²³

Under this provision, the President may designate the units of the Guard, by branch or organization, that will be maintained in each state, meaning that the President can choose the function particular units will serve and their level of command.²⁴ The provision also supplies a limitation on the exercise of federal authority by conditioning any changes in the branch or organization of a unit upon gubernatorial approval. Thus, redesignation of a unit's position in the command echelon or a change in its functions would appear to require gubernatorial consent. In addition, this limitation states that changes to the "allotment" of a unit are subject to gubernatorial approval. According to regulations issued by the National Guard Bureau of the Department of the Army and Air Force, allotment of a unit means its allocation to a particular state or group of states.²⁵

It may be possible to interpret § 104(c) to apply to BRAC actions. Unlike 10 U.S.C. § 18238, § 104(c) does not contain a provision expressly limiting its application to changes that result from the use of a given set of authorities. It is therefore arguable that the second sentence of this provision is applicable to a change resulting from the exercise of any authority. Further, it is possible that Congress intended the limitation to apply generally to changes that might be authorized by both law existing at the time of the provision's enactment and laws enacted in the future. On the other hand, it could also be argued that the limitation is applicable only to the exercise of the authority granted to the President by § 104(c) itself, namely the authority to designate the units of the National Guard to be maintained throughout the states and other specified U.S. possessions or, perhaps more broadly, to the exercise of other authorities enacted contemporaneously with § 104(c).

Despite the lack of a clear expression that the gubernatorial approval language of § 104(c) is applicable only to the exercise of authorities contained elsewhere in § 104, there is support for implying such a limitation to the provision's application. Generally, courts will not read provisions or portions of a statutory provision in isolation. Thus, it is appropriate when interpreting a statute to examine the context of a given provision and to "give effect to the plainly expressed clauses which precede and follow [the provision at issue]"²⁶ It is arguable, in this instance, that the second sentence of § 104(c) is impliedly tied to and meant to modify the first sentence of that subsection. As such, it serves as a traditional proviso, or a statement "restricting the operative effect of statutory language to less than what its scope of operation would be otherwise."²⁷ Provisos are typically interpreted according to the same principles applied to any other type of statutory provision, except that where there is ambiguity concerning "the extent of the application of the proviso

²³ 32 U.S.C. § 104(c) (emphasis added).

²⁴ See [GlobalSecurity.org, Military Lineage Terms, available at \[http://www.globalsecurity.org/military/agency/army/lineage-terms.htm\]](http://www.globalsecurity.org/military/agency/army/lineage-terms.htm).

²⁵ DEPARTMENTS OF THE ARMY AND THE AIR FORCE, NATIONAL GUARD BUREAU, *Organization and Federal Recognition of Army National Guard Units*, NGR 10-1 § 2-2 (Oct. 2002).

²⁶ *Western Union Tel. Co. v. Nester*, 309 U.S. 582, 589 (1940).

²⁷ 2A, Norman J. Singer, *STATUTES AND STATUTORY CONSTRUCTION*, § 47:08 at 235 (6th ed. 2000).

on the scope of another provision's operation, the proviso is strictly construed."²⁸ In addition, some judicial precedent indicates that a proviso's effect is limited to the section of a statute to which it is attached.²⁹ If this approach to statutory construction were adopted, it would appear likely that application of the limiting provision of § 104(c) would not be extended to changes to the branch, organization, or allotment of a unit resulting from BRAC actions. However, modern jurisprudence appears to adopt the position that provisos are to be interpreted in accordance with legislative intent and that "the form and location of the proviso may be some indication of the legislative intent," but will not be controlling.³⁰

An examination of the legislative history of § 104(c) may shed some light upon the intent behind the current limitation contained within the provision. The provision originates from language contained in the National Defense Act of 1916.³¹ That law altered the status of the then existing state militias by constituting them as the National Guard of the United States.³² The law provided federal compensation for Guard members and governed the basic organization, equipping, and training of the National Guard. It also authorized "federalization" of the Guard by units, rather than through the drafting of individual soldiers.³³ Section 60 of that act was comparable to the current law. It stated:

Except as otherwise specifically provided herein, the organization of the National Guard, including the composition of all units thereof, shall be the same as that which is or may hereafter be prescribed for the Regular Army, subject in the time of peace to such general exceptions as may be authorized by the Secretary of War. *And the President may prescribe the particular unit or units, as to branch or arm of service, to be maintained in each State, Territory, or the District of Columbia in order to secure a force which, when combined, shall form complete higher tactical units.*³⁴

Thus, in its original incarnation, this provision contained no limitation on the President's authority to designate which units of the Guard were to be maintained in which location. Subsequent to its enactment, the National Defense Act was amended several times. Section 6 of the National Defense Act Amendments of 1933³⁵ struck out the original language. The new provision retained much of the original substance, but included a limitation on presidential authority comparable to the current law. The provision stated:

[T]he President may prescribe the particular unit or units, as to branch or arm of service, to be maintained in each State, Territory, or the District of Columbia in order to secure a force which, when combined, shall form complete higher tactical units: *Provided, That*

²⁸ *Id.* at 236.

²⁹ *United States v. Babbit*, 66 U.S. 55 (1862); *United States v. Maryland Cas. Co.*, 49 F.2d 556 (7th Cir. 1931); *Wirtz v. Phillips*, 251 F. Supp. 789 (W.D. Pa. 1965).

³⁰ 2A, Norman J. Singer, *STATUTES AND STATUTORY CONSTRUCTION*, § 47:09 at 240 (6th ed. 2000).

³¹ National Defense Act, ch. 134, 39 Stat. 166 (1916).

³² *See New Jersey Air Nat'l Guard v. Federal Labor Relations Authority*, 677 F.2d 276, 278 (3d Cir. 1982).

³³ *See* 10 U.S.C. § 12301; *Holdiness v. Stroud*, 808 F.2d 417, 420-21 (5th Cir. 1987).

³⁴ National Defense Act, ch. 134, § 60, 39 Stat. 197 (emphasis added).

³⁵ National Defense Act Amendments, ch. 87, Pub. L. No. 73-64, 48 Stat. 153 (1933).

no change in allotment, branch, or arm of units or organizations wholly within a single State will be made without the approval of the governor of the State concerned.³⁶

A subsequent revision to the law changed the form of this above-quoted proviso, inserting it into a separate sentence. However, this change apparently was stylistic in nature and was not intended to have any legal consequences.³⁷ Thus, at the time the gubernatorial approval requirement was enacted, it would likely have been interpreted to have applied only to the section to which it was attached, in accordance with the jurisprudence of the time.³⁸ Thus, it is arguable that the limitation contained within § 104(c) is not applicable to any changes in the branch, organization, or allotment of a unit that result from BRAC actions.

However, there are indications that Congress perhaps intended a broader application of the proviso. In explaining the reasoning behind this addition to the law, the House Committee on Military Affairs stated that “where a State has gone to considerable expense and trouble in organizing and housing a unit of a branch of the service, [] such State should not arbitrarily be compelled to accept a change in such allotment, and this amendment grants to the State concerned the right to approve *any* such change which may be desired by the Federal Government.”³⁹ Resorting to more modern principles of statutory interpretation, congressional intent, as stated, is controlling as to the scope of a proviso’s application. Thus, this report language gives some weight to the argument that § 104(c) applies to any exercise of authority that results in the types of changes it references regardless of whether the changes are precipitated by the exercise of § 104(c) authorities.

It is also arguable, however, that the report language indicates only that Congress, in referring to “any such change which may be desired by the Federal Government,” considered the President’s authority under section 104(c) or more broadly, under the National Defense Act as it existed in 1933, to be the only source of authority for the changes it wished to subject to the limitation. In addition, while by no means dispositive, the report language does indicate that the gubernatorial approval requirement is meant to prohibit *arbitrary* changes to Guard allotment; it is certainly arguable that the BRAC process, which Congress devised to be premised on methodical analysis and review, would not produce the sort of arbitrary changes the proviso, even broadly interpreted, is targeted to prevent. In addition,

³⁶ *Id.* § 6.

³⁷ It should be noted that this provision along with all of Title 32 of the United States Code was revised and enacted into positive law, by Public Law 84-1028. Prior to this, Title 32 of the Code served as *prima facie* evidence of the law it restated; thus, reference to the original Statutes at Large was needed to obtain a truly reliable statement of the law. During the revision and enactment of Title 32, the structure of section 104(c) was modified. The 1956 revision, among other things, removed the phrase “Provided, That” and placed the gubernatorial approval requirement in a separate sentence, beginning with the word “However.” As explained in the legislative history for this revision, “the pertinent provisions of law have been freely reworded and rearranged, subject to every precaution against disturbing existing rights, privileges, duties, or functions.” S. REP. NO. 84-2484 (1956), *reprinted in* 1956 U.S.C.C.A.N. 4640. Where other changes to Title 32, including § 104, were intended to have legal consequences, an explanation of the change was included in the revision notes following the provision in the revised Code. No explanation of the change mentioned here appears. Thus, it would seem appropriate to conclude that no alteration to the substance of the law was intended by this revision.

³⁸ *See supra* note 29 and accompanying text.

³⁹ H.R. REP. NO. 73-141 at 6 (1933) (emphasis added).

it is notable that, despite the modern reliance on congressional intent and not formalism alone, courts will still look to the structure of a provision as relevant to deciphering congressional intent.⁴⁰ That the proviso was attached to the authority granted the President in the first sentence of § 104(c) could thus remain influential in determining whether the gubernatorial approval requirement applies to authorities outside of that provision.

In sum, unlike 10 U.S.C. § 18238, § 104(c) is more ambiguous in the scope of its application. Canons of statutory construction in favor at the time of the provision's enactment presumed the limitation of a proviso's application to the section to which it is attached. However, there is some indication in the legislative history that the proviso was intended to apply to any of the referenced types of changes, regardless of the source of their authorization. Thus, it remains necessary to examine the possible changes to this provision rendered by the Defense Base Closure and Realignment Act.

The Impact of Base Closure and Realignment Act

If it were determined that the provisions described above do apply broadly to the exercise of any authorities that might result in the type of changes or relocations proscribed by §§ 104(c) and 18238, it may still be arguable that the Defense Base Closure and Realignment Act supersedes these earlier provisions. Several principles of statutory interpretation inform the analysis of how these laws relate to one another.

It is clear that Congress can specify in legislation if earlier enacted statutes are to remain applicable or be modified in some particular way.⁴¹ The Base Closure Act does not directly address either of the provisions at issue here. Likewise, it does not appear to expressly authorize closure or realignment action despite any other existing law. In fact, the Base Closure Act does contain a waiver provision exempting BRAC actions from the operation of certain laws. That provision, however, references only limitations contained in appropriations acts and 10 U.S.C. §§ 2662 and 2687.⁴² Thus, unless an implied modification of §§ 104(c) and 18238 can be found in the Base Closure Act, these two provisions could limit the authority to close or realign facilities, assuming, as described above, that a court determined they applied to BRAC actions in the first place.

Because the Base Closure Act does not expressly exempt the actions it governs from compliance with the gubernatorial approval provisions found elsewhere in the Code, additional rules of statutory interpretation become useful. First, it is generally accepted that a statute enacted later in time can trump an earlier duly enacted law even absent an express statement to that effect.⁴³ The Base Closure Act was originally enacted in 1990 and remains largely in effect today. Further, it has been amended multiple times, most recently in 2001 authorizing the current 2005 round of BRAC actions and in 2004, altering certain authorities granted to the Secretary of Defense.⁴⁴ The relevant provisions contained in 10 U.S.C. §

⁴⁰ See *supra* note 30 and accompanying text.

⁴¹ See, e.g., *United States v. Fausto*, 484 U.S. 439, 453 (1988).

⁴² Base Closure Act, § 2905(d).

⁴³ See, e.g., *Posadas v. National City Bank*, 296 U.S. 497, 503 (1936).

⁴⁴ Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Pub. L. No. 108-375, 118 Stat 1811 (October 28, 2004); National Defense Authorization Act for Fiscal Year 2002,

18238 and 32 U.S.C. § 104(c) were both originally enacted well before the Base Closure Act in 1958 and 1933, respectively. Each has been amended subsequently as well. The most recent revision to §104(c) occurred in 1988, and was only a technical amendment. Section 18238 was most recently amended in 1994, after enactment of the Base Closure Act. This revision simply renumbered the provision and made technical corrections throughout the chapter containing §18238. Given these facts, different analysis applies to each provision.

Section 104(c) clearly predates the enactment of the Base Closure Act. Thus, it is possible that the Base Closure Act repealed any limitation otherwise imposed by the provision by providing the “exclusive authority for selecting for closure or realignment, or for carrying out any closure or realignment of, a military installation inside the United States.”⁴⁵ However, before a court will find that a later statute implies repeal of an older one, it must generally determine that the two provisions are in irreconcilable conflict.⁴⁶ The extent of any conflict in this instance is subject to debate. Certainly, the limitation in § 104(c) could prevent BRAC actions from occurring as intended by DOD, the BRAC Commission, and the President, and could be deemed inconsistent with the overall regime created by the Base Closure Act.

On the other hand, § 104(c) addresses a specific set of changes that cannot occur to National Guard units without gubernatorial approval. Thus, there is at least some range of BRAC action (e.g. a realignment of equipment or activities that does not result in the movement of units) that could occur absent gubernatorial consent. In addition, the consent requirement could be characterized as a limitation on actions that are the consequences of a realignment or closure, such as unit re-allotment, and not a limitation on the closure or realignment authority itself, thus making harmonization possible. Still, such an interpretation may parse statutory language too finely to be sustainable; indeed, the Base Closure Act authorizes the Secretary of Defense to “take such actions as may be necessary to close or realign any military installation, including the ... the performance of such activities ... as may be required to transfer functions from a military installation being closed or realigned to another military installation....”⁴⁷ Accordingly, it appears that § 104(c), if applied to the BRAC process, could frustrate an authorized BRAC action; further, harmonization of the provision with the Base Closure Act, while perhaps possible, may stretch the statutory language.

The issue of whether § 18238 supersedes the Base Closure Act, or vice versa, is somewhat more complicated. As stated above, § 18238 was first enacted in 1950 and revised multiple times subsequently, including a technical amendment in 1994, after enactment of the Base Closure Act. Further, the Base Closure Act has also been amended following the last revision of § 18238, in 2001 and 2004. Given that none of the amendments mentioned address the relationship between the BRAC process and § 18238 and given the presumption against implied repeal, it may not be sensible to ascribe priority to the provision that has most recently undergone minor and unrelated amendments. Indeed, statutory silence is rarely a

⁴⁴ (...continued)

Pub. L. No. 107-107, 115 Stat. 1012 (December 28, 2001).

⁴⁵ Base Closure Act, § 2909(a).

⁴⁶ *See United States v. Estate of Romani*, 523 U.S. 517, 530-533 (1998) (holding that a later, specific statute trumps an earlier, more general statute).

⁴⁷ Base Closure Act, § 2905(a)(1)(A).

reliable indication of congressional intent, and as the Supreme Court has stated, “it would be surprising, indeed,” for Congress to effect a “radical” change in the law “*sub silentio*” via “technical and conforming amendments.”⁴⁸ In fact, it is arguable that each amendment to § 18238 and the Base Closure Act, in not addressing the provisions’ relation to one another, affirmed the relationship established at the time of the Base Closure Act’s enactment.⁴⁹ If this is the case, analysis of the relationship between the two laws would be similar to the analysis of the Base Closure Act’s relationship with § 104(c). Therefore, it is arguable that because § 18238 deals with relocation of units and not with closure or realignment of facilities, the two provisions could be effectively harmonized so as not to require implied repeal of the earlier provision.⁵⁰ On the other hand, it would seem more likely that the Base Closure Act is incompatible with the limitation contained in § 18238 and that the limitation must fall aside.

It might also be plausible to argue that the subsequent amendments to the provisions at issue should also be taken into account. Arguably, after enacting the Base Closure Act, Congress was aware that it might supersede § 18238. Along these lines, had Congress intended a different result, it would have indicated its contrary intent in amending § 18238 in 1994. Similarly, the subsequent amendments to the Base Closure Act could be seen as implicitly affirming that § 18238 was not to limit BRAC actions. On the other hand, if the burden of clarifying the relationship between the laws at issue does fall upon the last section to be amended, even if only a minor or technical change is made, then § 18238 should remain applicable as a limitation on BRAC activities, as the Base Closure Act remains silent on the relationship of these laws even after the 2005 amendments. Finally, it should be noted again that despite the foregoing discussion, § 18238, even more so than § 104(c), seems to clearly indicate via the text of the provision, that its application is limited and does not extend to the BRAC process.

Conclusion

There would appear to be federal authority to require the closure or realignment of National Guard facilities under the Constitution of the United States. Several provisions of federal law, however, make it somewhat less clear if Congress has authorized the exercise of such authority by enacting the Defense Base Closure and Realignment Act and by authorizing a succession of BRAC rounds. The language of 10 U.S.C. § 18238 appears to indicate that the limitation it imposes upon the relocation or withdrawal of National Guard units is confined to a specified subset of authorities that does not include the Base Closure Act. 32 U.S.C. § 104(c) is less clear in this regard. Its limitation on changes to the branch, organization, or allotment of a unit, as originally enacted, served as a proviso attached to a

⁴⁸ Director of Revenue of Mo. v. CoBank, ACB, 531 U.S. 316, 323 (2001).

⁴⁹ See *Johns-Manville Corp. v. United States*, 855 F.2d 1556, 1559 (Fed.Cir.1988) (quoting *Lorillard v. Pons*, 434 U.S. 575, 580 (1978)) (“Congress is presumed to be aware of an administrative or judicial interpretation of a statute and to adopt that interpretation when it re-enacts a statute without change.”); see also *Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Curran*, 456 U.S. 353, 381-82 (1982); *Clean Harbors Envtl. Servs., Inc. v. Herman*, 146 F.3d 12, 19-20 (1st Cir. 1998). It should be noted that these cases dealt with congressional silence in the face of clear judicial or administrative interpretation, and that there does not appear to have been a similar interpretation of the provisions at issue here during the period in which Congress took action.

⁵⁰ See, e.g., *Watt v. Alaska*, 451 U.S. 259, 267 (1981); *Lewis v. Lewis & Clark Marine, Inc.*, 531 U.S. 438 (2001).

specific authority still contained within § 104(c). The provision has been revised, apparently without intending legal consequences, in such a manner as to perhaps indicate broader application. It is also arguable that even in its original form, the provision was intended to apply regardless of the source of authority for effectuating the types of changes the provision references. Even taking into account the legislative history behind § 104(c), the exact scope of its application is unclear, although cogent arguments against applying the provision to the BRAC process exist.

If a court were to determine that application of the provisions at issue was not limited to the authorities to which they appear at least structurally attached, general principles of statutory construction would tend to favor avoiding implied repeal by the later enacted or amended provision in favor of harmonization of potential conflicts, where possible. In such circumstances where the limiting provisions better fit the specifics of a situation, it may be appropriate to apply the limitation to the BRAC process. Despite this, it remains possible to argue that the intention behind BRAC is to provide for comprehensive closure and realignment authority and that application of §§ 18238 and 104(c) would frustrate the purpose of the Base Closure Act.



13 July, 2005

BRAC Commission
ATTENTION: Chairman Anthony J. Principi
2521 South Clark Street, Suite 600
Arlington, VA 22202

Dear Chairman Principi:

Thank you so much for arranging the hearing time in Atlanta for representatives of the Adjutants General Association of the United States (AGAUS). I believe the hearing chairman, Sam Skinner, will relay to you that we used the time wisely. The questions and dialogue after our testimony was perhaps the most valuable segment of the session.

The AGAUS is working on alternatives to the Future Total Force (FTF) plan to meet Air Force needs while ensuring a relevant and robust Air National Guard into the twenty-first century. Technical questions to Title 10 service members and other DOD personnel on this subject area have been commonplace over the past few weeks. However, the BRAC process has added a significant degree of tension that urges caution when DOD employees discuss specific ideas that might be construed as promoting alternatives to official DOD BRAC recommendations. So while much discussion is going on the Adjutants General were reluctant to reveal details at the hearing.

Within about a week I believe the AGAUS can present to the BRAC Commission an alternative look at the Future Total Force for the Air National Guard. Working under the same severe time constraint as the Commission will prevent providing a complete analytical package. However, the quality of the recommendations will become immediately apparent to you. You will see ideas that answer critical homeland security concerns while providing the various states with opportunities to transition smoothly to new missions thus preserving the unequalled experience for which the Air National Guard is renowned.

With your permission I will work with your staff to schedule a suitable time for presenting our ideas in the very near future.

As we have testified, the BRAC process is vital to meeting future defense and homeland security needs. The vast majority of work and recommendations is solid and deserving of full consideration. The AGAUS hopes the Commission will combine these elements of the BRAC recommendation with our recommendations for a total package worthy of the President's consideration.

Sincerely,


ROGER P. LEMPKE
Major General
President, AGAUS

ADJUTANTS GENERAL ASSOCIATION OF THE UNITED STATES
1 Massachusetts Avenue, N.W., Washington, D.C. 20001

To: General Fig Newton - Death of Dorice Allen of Enid, OK

Dear Gen. Newton, We just wanted to let you and Elouise know that Dorice Allen passed away on Sunday, July 10, 2005. Our telephone number is: 580-237-1147 address: 2802 Wagon Trailnid, OK 73703 or cell # 815-735-4552. Joyce Allen's email is: joyle1@aol.com We didn't have your latest address. Sorry to contact you on official channels. Take care, Joyce Allen (Allison) MD



June 8, 2005

Mr. Lloyd Newton
Senior Vice President Customer Requirements & Support,
Military Engines
Pratt & Whitney
400 Main St., M/S 181-37
East Hartford, CT 06108

Dear Mr. Newton:

As one of the people ultimately responsible for your company's revenue or directing your company's sales force, you're no doubt keenly aware of just how difficult today's economic climate has made it for salespeople. And if you're like most of the people in your position I talk with on a regular basis, you're probably experiencing one or more of the following things:

- Your historically top producing salespeople are having trouble making their numbers.
- Your best customers are beginning to entertain conversations about new capital expenditures, but they really haven't bought much yet.
- Customers who used to have signing authority for major purchases now must get multiple approvals for any significant expenditure.

There's only one way to grow revenue in this kind of environment, and that's for your salespeople to call higher in organizations.

Selling to the Executive Suite™ fully prepares your sales force to sell at the highest level. In only two days, your salespeople will learn a simple, straight forward process drawn from the best practices of some of the world's most successful sales forces. Best of all, the program gives your salespeople multiple opportunities to practice the process in a "real-world" environment, using their own prospects.

In spite of the fact that today's business climate is as tough as it's probably ever been, *there absolutely are sales to be made*. But if you are asking your salespeople to call at the executive level without properly preparing them, you are wasting their time and your money. Your organization simply can't afford not to equip your salespeople with the knowledge they'll gain in **Selling to the Executive Suite™**.

Please look over the attached material and I'll be in touch in the next few days to talk with you about how this program can work for you.

Sincerely,

Brad Stribling
Managing Partner



June 29, 2005

**General Ronald E. Keys
Commander, Air Combat Command
205 Dodd Boulevard, Suite 100
Langley AFB, VA 23666-27888**

Subject: Visit to Pratt & Whitney and Honorary Guest Speaker for Customer Day

Dear General Keys:

Congratulations on your assumption of command of Air Combat Command (ACC). Pratt & Whitney has a long-standing relationship with ACC. We are proud of the engines and support we provide to your fighter, bomber and surveillance aircraft and we look forward to providing advanced technology engines for the F/A-22 and F-35. We welcome the opportunity to show you the F119 and F135 engines up close and personal at our plant in East Hartford, Connecticut.

Pratt & Whitney's Customer Day, scheduled for October 11th, has become a great tradition and one that we are proud to host again this year. We have established Customer Day as an event to recognize outstanding Customer Service accomplishments as well as provide a forum for collecting ways for us to improve customer satisfaction. Through this event we will focus the entire Pratt & Whitney organization on those issues that are most important to you, our customer. *We would be especially honored to have you as a guest speaker at this important event.*

We would encourage you to speak on any topic, particularly one that affects your day-to-day business. I believe it would be most beneficial for our employees if you share your opinion on the most important actions that Pratt & Whitney should be taking to ensure your complete satisfaction with our products and services. At the same time, if any recent Pratt & Whitney activities or initiatives have impressed you please be sure to make our employees aware of these as well. To make your visit with us more productive, we have arranged several activities both before and the evening of Customer Day for you to take part in with other customers and with Pratt & Whitney personnel.

I really hope you will be able to be our keynote speaker at our Customer Day in October and look forward to your response so we can finalize our planning for this event. I'm sure our Pratt & Whitney employees attending this event will benefit from your insight and experience, thereby improving our ability to serve you even better in the future.

Sincerely,

**Lloyd W. Newton
Executive Vice President,
Pratt & Whitney Military Engines**



**DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010**

JUL 14 2005

The Honorable Anthony J. Principi
Chairman
Defense Base Closure and Realignment Commission
2521 South Clark Street, Suite 600
Arlington, VA 22202

Dear Chairman Principi,

In your letter of July 1, 2005, you asked for the Department's comments on a number of installations in advance of the Commission's voting at your hearing on July 19, 2005, to consider these installations for closure or realignment analysis. Your July 12, 2005 letter requested witnesses to address the Commission's concern regarding recommendations impacting the Air National Guard.

The Commission's independent assessment of the Department's recommendations and the subsequent reviews by the President and the Congress are each important steps to ensure that the final recommendations are fair, consistent with the selection criteria and force structure plan and will, in fact, increase the efficiency and effectiveness of our military infrastructure. As such, while the Department stands behind its recommendations, it fully supports the Commission's analysis of alternatives. As you undertake your review, please consider that each of the Department's recommendations is part of a comprehensive, integrated, and interdependent package. The recommendations submitted by the Department of Defense strengthen national security by reshaping the domestic installations at which U.S. military forces and their associated support elements perform their assigned missions.

The Military Departments and Joint Cross-Service Groups have provided the attached responses to the issues you raise. While I appreciate the opportunity to testify on July 18, 2005, Mr. Michael Wynne, Chairman of the Infrastructure Steering Group (ISG), will lead a panel that will include General William Nyland, Assistant Commandant of the Marine Corps, General Michael Moseley, Vice Chief of Staff of the Air Force, and Admiral Robert Willard, Vice Chief of Naval Operations. They are jointly designated to discuss the issues at the hearing. Additionally, we will provide a second panel to deal exclusively with the Commission's concerns regarding recommendations concerning the Air Guard. This panel will be led by Lt Gen Stephen Wood, Deputy Chief of Staff of the Air Force for Plans and Programs, and will include Maj Gen Gary Heckman, Assistant Deputy Chief of Staff of the Air Force for Plans and



Programs, Maj Gen Scott Mayes, Commander, 1st Air Force, and Commander, Continental U.S. North American Aerospace Defense Command Region, and Brig Gen Anthony Haynes, Air National Guard Assistant for BRAC.

Thank you for the opportunity to provide comments on these issues. If I can be of further assistance, please do not hesitate to contact me.



Andrew England
ACTING

Enclosure:
As stated

RESPONSES TO SPECIFIC ISSUES

1. Marine Corps Recruit Depot (MCRD) San Diego, CA

Commission issue: Why was Marine Corps Recruit Depot (MCRD) San Diego, CA, not closed and consolidated with Marine Corps recruit training at MCRD Parris Island, SC?

Response:

KEY POINTS:

- Geo-centric recruiting/shipping/recruit training command and control would be compromised.
- Replication of facilities would require in excess of 100 years to payback.
- Recruit pipeline requirements cannot sustain a single point of failure.

DISCUSSION:

The consolidation of Marine Corps recruit training at a single site was evaluated but not recommended. After extensive analysis, the Department of the Navy (DON) concluded that single-siting recruit training would degrade recruit training command and control, limit surge capability, and require fiscally burdensome duplication of already-existing mission and modern facilities. Also, because significant reductions in overhead have already occurred outside of the BRAC process, single-siting recruit training would not produce significant billet eliminations.

DON analysis of Marine Corps recruit training went through several stages and included a thorough review of the available certified data along with consideration of input from Marine Corps leadership. The review of capacity data showed that, when allowing for surge, there is virtually no excess capacity in Marine Corps recruit training. The scenario to close MCRD San Diego and consolidate at MCRD Parris Island (DON-0066) was developed based on data that showed the availability of buildable acres at MCRD Parris Island. (See DAG Report of Deliberations of 27 Sep 2004).

During scenario analysis, the DON considered input from Marine Corps leadership, who identified a number of issues of concern with the proposed Parris Island consolidation, including creating the risk of a single point of failure and limiting the ability to handle unexpected surge requirements, or even normal requirements in the event of future growth in end-strength. These factors would have an adverse effect on an organization that is heavily committed to sourcing three Marine Expeditionary Forces worldwide and waging the Global War on Terrorism. The Marine Corps has aligned its recruiting/shipping/recruit training mission geographically under the command of each of the Recruit Depot Commanding Generals. This unity of command and control allows for the necessary detailed demographic knowledge to effectively recruit, and for the geographic proximity for recruit and follow-on training to efficiently ship new Marines

on that coast. This synergy has supported the Marine Corps' historic success in meeting recruiting mission, and becomes increasingly vital in an era of increasingly competitive recruiting and accelerated operational deployments during the Global War on Terrorism. Restructuring of this command and control relationship could be required if recruit training were single sited at Parris Island. Single-siting the training function would cause a significant increase in the span of control for the Eastern Recruiting Region commander, and likely necessitate organizational changes with increased staffing requirements. The Marine Corps also depends heavily on a sustained pipeline of trained recruits. As a predominantly single enlistment force, any disruption in the recruiting/training continuum would disrupt the pipeline to provide new Marines to the operating forces. Short perturbations can be handled because of the two recruit depot operating construct. Significant concerns were raised with the consideration of single siting, especially in a hurricane prone region. (See DAG Report of Deliberations of 18 Oct 04 and 26 Oct 04, IEG Report of Deliberations of 4 Nov 04).

The COBRA analysis of the MCRD San Diego closure shows one-time costs of \$570.1M and steady state savings of \$14.2M, resulting in a Payback exceeding 100 years. This result was compared to the analysis of this scenario conducted during BRAC 1995. MILCON costs were considerably lower, and the anticipated number of eliminated personnel was significantly higher in BRAC 1995 than for scenario DON-0066. During the course of the past ten years, the Marine Corps has eliminated excess capacity and implemented initiatives to consolidate MCRD-related billets. For that reason, few billets are eliminated (with their associated cost savings) and the great majority of MCRD San Diego billets will need to be relocated to MCRD Parris Island in order to perform the recruit training function. In addition, a complete set of new recruit training facilities would have to be constructed there to accommodate the three additional Recruit Training Battalions in facilities built to hurricane-proof standards. Additional MILCON is required for non-recruit training activities located at MCRD San Diego that would have to be relocated elsewhere. MCRD consolidation on one coast will also increase recruiting related travel costs.

Based upon the cost analysis and concerns about negative impacts on the recruiting/training missions, the DON Infrastructure Evaluation Group decided not to forward DON-0066 for consideration as a candidate recommendation (See IEG Report of Deliberations of 27 Jan 05).

2. Naval Shipyard Pearl Harbor, HI

Commission issue: Why was the Naval Shipyard Pearl Harbor, HI, not closed and the ship depot repair function realigned to Naval Shipyard Norfolk, VA; Naval Shipyard Portsmouth, ME; and Naval Shipyard Puget Sound, WA?

Response:

KEY POINTS:

- Industrial JCSG found excess capacity sufficient to justify closure of one shipyard.
- Military judgment favors retention of Pearl Harbor Naval Shipyard because of its strategic location and multi-platform capabilities.

DISCUSSION:

As noted in the minutes and report of the Industrial Joint Cross-Service Group, all four naval shipyards were analyzed to determine if there was sufficient capacity for any three of the shipyards to absorb the workload of the fourth based on the 20-year Force Structure Plan. That evaluation revealed that there is sufficient excess capacity to realign the workload of either Pearl Harbor Naval Shipyard or Portsmouth Naval Shipyard. The Industrial JCSG then reviewed military value and COBRA data to determine which closure was the preferred alternative.

The quantitative military value scores for Pearl Harbor Naval Shipyard and Portsmouth Naval Shipyard were very close. Shipyard total cost and proximity to ship homeports were evaluated as part of the quantitative military value analysis. The total cost attribute favored Portsmouth Naval Shipyard, while the homeport proximity favored Pearl Harbor Naval Shipyard. The Industrial JCSG also evaluated the differences in drydock and workload capabilities between the two shipyards.

The COBRA analysis indicated that realigning the Pearl Harbor Naval Shipyard depot function would produce greater net present value savings than realigning the Portsmouth Naval Shipyard depot function. However, the net present value savings associated with the DON fenceline closure of Portsmouth Naval Shipyard produces savings about the same as realigning the depot function at Pearl Harbor Naval Shipyard.

Although the quantitative military value score for Pearl Harbor Naval Shipyard was slightly lower than that of Portsmouth Naval Shipyard, it was the military judgment of the Industrial JCSG that Pearl Harbor Naval Shipyard's critical geographical location, adjacent to a significant portion of the Fleet and forward positioned in the central Pacific, combined with its capability to dock a nuclear-powered aircraft carrier, provided a higher overall military value to the Department. This judgment is supported by the DON, as indicated by its submission of the closure recommendation. Pearl Harbor Naval Shipyard is strategically located to support DoD's current and future mission capabilities in the Pacific. Loss of this critical asset will have an adverse impact on operational warfighting

capability, training and readiness. Additionally the Combatant Commander expressed operational concerns with a closure of the Pearl Harbor Shipyard in that it would result in reduced theater presence as a result of the associated increased transit times, a loss of emergent CVN drydock capability (the only option west of Washington state) and a general concern with the loss of availability of "logistics, supply and operational support services throughout the Pacific." Finally, the Navy was concerned with the personnel retention implications that would result from a closure of Pearl Harbor in that it would result in a significant increase in dockings being conducted out of homeport.

3. Naval Air Station Brunswick, ME

Commission issue: What considerations were given to a complete closure of Naval Air Station Brunswick, ME, and what were the driving factors in deciding the realignment?

Response:

KEY POINTS:

- Realignment versus closure was extensively debated within DON, and DON ultimately recommended closure.
- The IEC modified closure to realignment because of a desire to retain strategic presence in the Northeast U.S. and for a surge capability.

DISCUSSION:

The Department of the Navy did develop and analyze a scenario to close NAS Brunswick. When combined with other aviation recommendations, the closure of NAS Brunswick would have reduced the excess capacity for the Aviation Operations function from 19 percent to 8 percent. Such a recommendation not only allowed consolidation of Maritime Patrol Operations on the East Coast with attendant increased maintenance and training efficiencies, but it also produced significant steady-state savings of \$94.6M and a 20-year net present value of \$843.2M.

During the review of scenario analysis the Commander, Fleet Forces Command (CFFC), expressed concerns that closing NAS Brunswick could result in diminished strategic flexibility, as well as impact future basing flexibility. (See DAG Reports of Deliberations of 6 Dec 04, 11 Jan 05, 17 Jan 05, and 24 Jan 05). These concerns led to review of the availability of possible detachment sites for Maritime Patrol operations and analysis of additional alternatives to closure so the leadership had full visibility of the various trade-offs in making their decisions. (See IEG Report of Deliberations of 27 Jan 05 and 17 Feb 05, DAG Reports of Deliberations of 8 Feb 05, and 15 Feb 05). After reviewing the additional analyses, the Department of the Navy decided to forward the closure scenario to the Infrastructure Executive Council as a candidate recommendation because of the significant savings associated with the closure, combined with the options available to address operational concerns.

When the candidate recommendations were reviewed in final deliberations, the IEC determined that NAS Brunswick should be realigned instead of closed to retain an active presence in New England for homeland defense and surge capability. (See IEC Minutes of 2 May 05 and 4 May 05). This decision is consistent with the concerns expressed by the Fleet in that it provides strategic flexibility by maintaining an ability to rapidly position aircraft in the Northeast should an increased threat materialize.

4. Navy Broadway Complex, San Diego, CA

Commission issue: Why was the Navy Broadway Complex, San Diego, CA, not considered for closure and realignment of existing functions to Naval Station San Diego, CA?

Response:

KEY POINTS:

- All activities/functions located at the Broadway Complex were evaluated by either Department of the Navy or one of the Joint Cross-Service Groups.
- DON BRAC analysis did not develop a recommendation to close Broadway Complex because none of the activities on this property were recommended for relocation.

DISCUSSION:

The Broadway Complex in San Diego is property owned by the Navy and located on slightly less than 15 acres of contiguous property in downtown San Diego with 857K square feet (SF) in three separate buildings. It houses several commands; the two largest commands are Fleet and Industrial Supply Center (FISC) San Diego and Commander, Navy Region Southwest. All of the functions located on this property were reviewed by either DON or one of the Joint Cross-Service Groups (JCSGs). The BRAC analyses performed by DON and the appropriate JCSGs, including capacity and military value analysis, did not identify any scenarios to realign activities from the Broadway Complex.

Within the DON BRAC process, a fenceline (a distinct parcel of land that supported one or more functional activities undergoing BRAC analysis) was not considered for closure unless sufficient assets were proposed to be removed so as to effectively eliminate all missions aboard the fenceline. Since no mission activities were recommended to be relocated, DON did not issue a recommendation to close this fenceline.

Although DON recognizes the AT/FP concerns and the potential for increased development of the Broadway Complex parcel, scarcity of available DON owned waterfront property in the San Diego area suggests determination of the disposition of the Broadway complex is better addressed through ongoing negotiations between the City of San Diego, local developers and the DON outside the BRAC process.

5. Realignment of Naval Master Jet Base

5a. Commission issue: What consideration was given to the realignment of the Master Jet Base (MJB) located at NAS Oceana, VA, to Moody AFB, GA?

5a. Response:

KEY POINTS:

- Navy examined several alternatives for an east coast MJB, including Moody AFB.
- While Moody is a feasible alternative to Oceana, it has a number of factors that make it less desirable than retaining Oceana, including significant one-time MILCON costs.
- While Oceana is the most suitable option of all east coast TACAIR bases considered, encroachment at Oceana presents significant challenges to long-term operational requirements.
- The best basing alternative for East Coast tactical aviation would be to build a new 21st century Master Jet Base, but such action would occur outside the BRAC window.

DISCUSSION:

The Navy has given extensive consideration to the possible realignment of the Oceana MJB out of concern over likely long-term encroachment issues. Our assessment included Moody AFB as well as a range of other feasible Defense Department air facilities. In the case of realignment to Moody AFB, while it was considered a feasible alternative, it would incur significant one-time costs (almost \$500 million) and result in a long payback period (14 years). We concluded the best long-term basing alternative for East Coast Navy tactical aviation would be to build a new 21st century naval air station able to accommodate legacy and planned high performance aircraft, but such action would optimally occur outside the BRAC window.

Selecting a location and building from the ground up is by far the preferred choice as it gives us the most flexibility to ensure we accommodate future capabilities, while allowing for sufficient “buffers” to preclude potential encroachment issues. This approach, if pursued, would allow for a truly modern air station, with commensurate energy, environmental and community consideration designed into the facility from the very beginning. By contrast, relocating to Moody (built in 1940) or another existing installation within the timeframe of this BRAC would require extensive infrastructure upgrades, take significant time and resources, and still would not attain the operational or quality of life standards expected of this century.

5b. Commission issue: Was movement of the assets assigned to Moody AFB, GA to Cannon AFB, NM, considered and if so, what were the driving considerations not to do so?

5b. Response:

KEY POINTS:

- Need for Battlefield Airmen Training works at Moody AFB
- Cannon AFB has no significant joint training opportunities within operational proximity
- Cannon AFB Military Capacity Index (MCI) was lower than Moody AFB

DISCUSSION:

Early in the process the Education and Training Joint Cross-Service Group (JCSG) and the Air Force analyzed scenarios to realign Moody AFB. The JCSG scenario distributed the Moody training aircraft to other Air Education and Training Command (AETC) bases. The Air Force scenario distributed the Special Operations Forces/Combat Search and Rescue (SOF/CSAR) aircraft to Davis Monthan AFB, AZ. Transferring the SOF/CSAR aircraft from Moody to Cannon was not considered because Cannon's SAF/CSAR MCI was lower than Moody.

During the BRAC process, the Air Force identified an emerging need for a Battlefield Airmen Training Campus for the Expeditionary Combat Support (ECS) family of specialties such as Combat Rescue, Combat Control, Terminal Attack Control and Special Operations Weather. Moody was identified as a potential site for this purpose. Of all Air Force bases, Moody had the right infrastructure/range complex and proximity to other areas such as the Gulf Range Complex at Eglin and Tyndall. The Air Force decided to leave the CSAR aircraft at Moody and place A-10 aircraft there also (Moody scored 8 points higher than Davis-Monthan for SOF/CSAR). Also, as a part of the BRAC process, the Army proposed the realignment of the Armor Center/School to Fort Benning, GA and the 7th Special Forces Group to Eglin (to be in close proximity with the Air Force Special Operations Command). Therefore, the establishment of a Battlefield Airmen Training Campus at Moody can provide a center of excellence for airmen in expeditionary combat support fields and also provide Air Force and joint training opportunities within operational proximity of Moody AFB. A-10/CSAR aircraft collocated at Moody AFB will provide an east coast CSAR training efficiency similar to Davis-Monthan AFB. Moody AFB is rated 11 of 154 in the SOF/CSAR MCI and is also in the top ten of all installations in 4 of the other 7 MCIs. It remains one of the Air Force's most valuable installations.

Cannon AFB has no significant joint training opportunities within operational proximity to the base, and for the A-10 aircraft, that is mandatory. Cannon AFB did not rank well within the SOF/CSAR MCI and therefore, the Air Force did not consider Cannon AFB to beddown the active duty A-10 mission.

6. Galena Airport Forward Operating Location (FOL), AK

Commission issue: Was any consideration given to merging the missions of Galena FOL, AK, and Eielson AFB, AK? Why does the United States need to maintain two FOLs in Alaska, given the current national security environment and 20-year threat assessment?

Response:

KEY POINTS:

- Air Force BRAC analysis did not develop a scenario.
- No force structure to move.

DISCUSSION:

The Air Force did not consider moving the operational support mission from Galena Airport to Eielson AFB, which is over 300 miles from Galena. Consistent with the requirement to consider the impact on homeland defense, the Air Force Base Closure Executive Group (BCEG) left Galena open primarily because of its operational role and because it had no day-to-day force structure assigned. Initial BRAC inputs made by the Combatant Commander through the Joint Staff did not include Galena or other FOLs to be considered for closure. However, based on the Commission's July 1, 2005 letter, the Joint Staff contacted the Combatant Commands for their comments concerning the potential operational impact if the Galena FOL is closed and closing the Galena, AK, FOL and moving its missions to Eielson, AFB, AK will not create unacceptable risk to North American Aerospace Defense Command (NORAD)/U.S. Northern Command (USNORTHCOM) mission accomplishment.

7. Pope Air Force Base, NC

7a. Commission issue: What considerations drove the recommendation to realign, rather than close Pope AFB, NC under Fort Bragg, NC?

7a. Response:

KEY POINTS:

- Supports Army plan for relocation of FORSCOM.
- Maintains airfield capability for Army presence and Air Force force structure.
- Allows efficient consolidation of installation management functions.

DISCUSSION:

The Air Force recommendation to realign, rather than close Pope AFB, was made to support the Army recommendation to relocate U.S. Army Forces Command and U.S. Army Reserve Command and allows for closure of Fort McPherson, GA and Atlanta leased space. All Air Force property and facilities will be administratively transferred to the Army. The financial analysis included expected recurring expenses paid by the Air Force to the Army as a result of the Air Force presence that will remain. This

coordination on installation management builds upon and subsumes the H&SA candidate recommendation (H&SA-0009) to combine Installation Management of Fort Bragg and Pope AFB, NC.

7b. Commission issue: Are the joint operational synergies that exist between the XVIII Airborne Corps and the 43rd Airlift Wing/23rd Fighter Group able to be replicated from other locations?

7b. Response:

KEY POINTS:

- Existing operational relationships will continue.
- Additional operational and training synergies will emerge from new relationships.

DISCUSSION:

As a part of the coordination between the Army regarding a tenant Air Force presence on an expanded Fort Bragg, the Army indicated that it would allow a tenant C-130 unit with a maximum size of 16 PAA (911th Airlift Wing, AFRC). Other Air Force functions that currently exist at Pope AFB, will remain at Fort Bragg to continue the present operational relationships, they include: 3rd Aerial Port Squadron; 18th Air Support Operations Group; 14th Air Support Operations Squadron; Det 1 of the 373rd Training Squadron; and 43rd Aeromedical Evacuation Squadron. Additionally, new opportunities for on-going joint operations at Fort Bragg will continue with planned deployment of air assets to Fort Bragg/Pope for joint training with the Army.

The Pope recommendation also includes the transfer of A-10s to Moody AFB, GA. Operational and training synergies will occur with new relationships between the A-10 unit at Moody and Army units at Ft. Benning, GA, the recommended location of the Army's Maneuver Training Center (consolidation of Infantry and Armor schools). Locating Air Force A-10s near this consolidated Army training will lead to new opportunities of realistic close air support training for the Army and the Air Force and potential joint training between the Battlefield Airmen at Moody, the Maneuver Center of Excellence and east coast CSAR training capability with CSAR helicopters and A-10s.

8. Grand Forks Air Force Base, ND

Commission issue: What considerations drove the recommendation to realign rather than close Grand Forks AFB, ND? What is the number of UAVs planned for assignment to Grand Forks AFB, ND, and what is the timing of the potential deployment?

Response:

KEY POINTS:

- Ensures continued strategic presence in the North Central U. S.
- Positioned to accept emerging Unmanned Aerial Vehicle (UAV) mission.

DISCUSSION:

The original Air Force candidate recommendation to the Infrastructure Executive Council (IEC) was to close Grand Forks, AFB. The IEC reviewed it in context with other Service and Joint Cross-Service Group candidate recommendations. To address an IEC concern over a continued strategic presence in the north central U.S., the Air Force presented an option to realign Grand Forks AFB but maintain the tanker moves out of Grand Forks to support other high-value tanker realignments. The IEC adopted this recommendation.

The justification for the Grand Forks AFB recommendation specifies that the base would be retained for an emerging mission, of which UAVs may be one (in addition to continuing support of the 10th Space Warning Squadron). Specific future plans for UAVs (in terms of numbers and timing) are undefined in BRAC; however, the post-BRAC intent of the Air Force is to dovetail an emerging mission with the departure of the old mission.. The Secretary of the Air Force and the Chief of Staff of the Air Force have signed out to the Commission a separate letter to that effect (Reference: Department of Defense recommendation to realign Eielson AFB, AK, and Grand Forks AFB, ND, 7 Jun 05). A portion of that background paper on Grand Forks stated "...Specifically, the Air Force strategic vision for Grand Forks AFB is to become a home to a "family of UAVs," with associated Intelligence, Surveillance, and Reconnaissance support functions. In cooperation with the North Dakota Air National Guard (ANG), the Air Force would establish a Predator MQ-1 ANG unit with an Active Duty Associate unit to backfill F-16 retirements at Fargo's Hector Field. Growth of this mission will include transition to the Predator MQ-9, eventually add the Global Hawk UAV with the Grand Forks Tanker realignment and FTF emerging mission and associations at both locations."

9. Air National Guard

9a. Commission issue: Were the Adjutants General and Governors of the States consulted in the re-allocation of aircraft, personnel, facilities and missions from their states?

9a. Response:

KEY POINTS:

- The State Adjutants General were provided significant briefing during the BRAC process.

DISCUSSION:

Adjutants General (TAGs) were briefed on the force structure, organizational, and military value factors that formed the foundation of the Air Force BRAC analysis. Senior Air Force staff, Guard and active, briefed the TAGs in December 2003 at the TAG meeting in Baltimore. That session included a discussion of the force structure and squadron size assumptions that were eventually included as part of BRAC later that winter. The senior BRAC staff, Guard and active, appeared before the TAGs again in

July 2004 to give them feedback into the senior military value discussion (which included the Director, Air National Guard (ANG) and the Chief, Air Force Reserve) that formed the foundation for the MCI (mission compatibility index) weightings. The BRAC staff did this well prior to the completion of the MCIs and the release of the capacity and military value data calls to the installations. These MCIs provided the starting point for Air Force BRAC deliberations. The Guard representative to the Base Closure Executive Group (BCEG) later provided a comprehensive, personal briefing to the Chief, National Guard Bureau in April 2005 when the Air Force deliberations were entering their final phase.

The Air Force BRAC charge was to accommodate a shrinking force structure in order to ensure we placed right-sized squadrons at the best combination of bases to achieve both homeland and overseas defense objectives. Effectively organized flying squadrons were key to future warfighting effectiveness. To achieve this, we restored our operational squadrons to sizes that would result in more effective and efficient use of a shrinking force structure. Over the past 10 years, the AF reduced the number of squadrons in its active component to ensure effective sized squadrons in an era of declining total force structure. During the same period, the AF retained essentially the same number of squadrons in the reserve component and reduced the number of aircraft in each squadron to 'maintain flags.' Consequently, although the Air Force BRAC process maintained the proportionality of the active, Guard, and Reserve components, the combination of a further reduced force structure and the need to restore Guard and Reserve units to effective sizes resulted in a greater reduction in the number of squadron flags in the reserve component than the active duty.

Initially the Air Force considered closing the bases losing flying missions. Following deliberation, however, the Air Force concluded that the expeditionary combat support (ECS) forces that remained after we effectively sized the flyers were themselves quite effective both for Title 10 expeditionary missions and Title 32 state missions. Some believe that these bases should be closed, however, the Air Force strongly believes these ECS forces provide viable expeditionary and state support and their base of operations should not be moved. Any adjustment to the lay down of the ECS forces will need to be re-evaluated for impact on the support to civil authorities.

9b. Commission issue: What impact does the realignment of the ANG have on the homeland defense and homeland security missions?

9b. Response:

KEY POINTS:

- Homeland Security, Air Sovereignty, and Civil Support are adequately addressed.

DISCUSSION:

Balancing the Air Force to meet both the homeland and expeditionary defense needs of the Nation was another key consideration. This was most acute in the C-130 force, where the current average Personnel Tempo (PERSTEMPO) for active crews is 150 days per year TDY with the Guard and Reserve activated. When the 2-year reserve component activation is complete, Air Mobility Command estimates the average active PERSTEMPO will rise above 200 days per year without the BRAC recommendations. To assist with the assessment of homeland defense, the Air Force consulted with US Northern Command (USNORTHCOM) and also with the most senior staff members of the Director, Air National Guard (ANG) during the AF BRAC process. The USNORTHCOM favorably reviewed our recommendations and the ANG staff was completely involved as full partners in the BCEG throughout the process. The BCEG focused its Homeland Security deliberations on comprehensive air sovereignty requirements and not on the specific mission of any single unit or location. The support to civil authorities' roles and missions of airlift units in times of crisis are borne by the airlift/transportation system as a whole. For Civil Support missions, the Air Force requires the ability both to proactively plan with civil agencies as well as rapidly respond to man made or natural disasters when tasked. Important capabilities to enable these types of missions include: 1) Crisis Management to prevent and protect (law enforcement support and safeguarding the supply chain), 2) Consequence Management to respond locally (CBRNE/WMD and natural disaster mitigation), and 3) Providing Agile Combat Support (ACS) or Expeditionary Combat Support (ECS) infrastructure to assist civil authorities in the areas of medical support, food deliveries, protection from the elements, etc. at both local and national levels. In an effort to balance warfighting and civil support requirements the AF recommendations retain ECS units in twenty "Enclaves" to continue support of local authorities. We believe both aspects of homeland security, air sovereignty and civil support, are adequately addressed within the Air Force recommendations.

In his letter dated May 4, 2005, Admiral Keating, Commander US NORTHCOM, agreed stating, "Following a thorough review, we find that they (the draft 2005 BRAC recommendations) do not create an unacceptable risk to the accomplishment of our homeland defense or defense support of civil authorities."

10. Defense Finance Accounting Service (DFAS)

Commission issue: Why were keeping DFAS Buckley Annex, CO, DFAS Columbus, OH, and DFAS Indianapolis, IN, open and closing the remaining DFAS sites the only scenario considered? Why did DoD not consider other options, which could have avoided military construction costs and possibly produced a more cost effective option?

Response:

KEY POINTS:

- Optimization Model was used to develop Best Value solution.
- No Military Construction involved.

DISCUSSION:

The Headquarters and Support Activities (H&SA) JCSG followed an iterative process that reviewed all DFAS locations as potential gaining locations. The process considered options and concluded the three-location combination, DFAS-Denver, DFAS-Columbus and DFAS-Indianapolis, represented the best value solution for DFAS by maximizing military value. The Optimization Model was used to develop the best value solution for DFAS, from both facilities and business operations perspectives. Within the optimization model the following constraints were applied against the 26 DFAS locations: (i) Maximize military value, (ii) Minimize number of locations, (iii) Minimum of two locations – to support strategic redundancy, (iv) Minimize military construction, and (v) Retain anchor locations for business operations integrity. The model resulted in the best value solution, and the economics (cost/savings) of the solution were then developed using the Cost of Base Realignment Actions (COBRA) model.

The DFAS recommendation does not include costs for new construction. It does include costs associated with the possible reactivation of part of building #11, at Defense Supply Center-Columbus (DSC-C), OH. Because of the lack of detailed costing information associated with a reactivation, renovation equal to 29% of construction costs was used. The cost in COBRA is thus a conservative estimate, as the DSC-C reported that building #11 is in good condition and should only require a lesser expense for reactivation.

11. Professional Development Education

Commission issue: What consideration was given to the closure and realignment of the Air Force Institute of Technology (AFIT) at Wright Patterson AFB, OH, and the Defense Language Institute (DLI) at Monterey, CA, with Naval Postgraduate School (NPGS) at Monterey, CA, to create a consolidated professional development education center?

Response:

KEY POINTS:

- Consolidation of the Naval Postgraduate School and Air Force Institute of Technology was considered but did not include the Defense Language Institute (DLI).
- Maintaining graduate education is a core competency of the Department.

DISCUSSION:

The Education & Training (E&T) JCSG analyzed a full set of scenarios for all three institutions, including closure (privatize the functions), consolidations, and realignments. One of the scenarios (E&T-0022) consolidated NPGS and AFIT at Monterey, CA but did not include DLI in that consolidation. This scenario was not recommended in favor of E&T-0003 (the privatization of NPGS and AFIT), which was later integrated with DON-0070 (the closure of the installation housing NPGS). The Infrastructure Executive Council (IEC) later also deleted this candidate recommendation in recognition of the value provided by having military postgraduate education facilities that (1) recognize the uniqueness of professional military education, (2) acknowledge the importance of sustaining a world class educational facility as a component of our military structure, and (3) recognize the long-term benefits achieved from having a dedicated military campus that attracts future military leaders from other countries.

12. Joint Medical Command Headquarters

Commission issue: What consideration was given to establishing a Joint Medical Command Headquarters, through collocation of disparate Department of Defense Surgeons General, at the National Naval Medical Center, Bethesda, MD?

Response:

KEY ISSUES:

- Joint Medical Command was not considered but co-location was.
- Co-location not cost effective.

DISCUSSION:

The Medical Joint Cross-Service Group determined that consideration of a Joint Medical Command, with its complex command and control ramifications, was outside the scope

of their charter. The Medical JCSG approach, approved by the Infrastructure Steering Group, was to focus on medical capacity and efficiencies. The Headquarters and Support Activities Joint Cross-Service Group addressed collocation of the Medical Headquarters functions in the National Capital Region. Due to the complexities of instituting Joint Command and Control structures, no recommendations instituting a Joint Command Structure was developed.

The H&SA JCSG developed several scenarios for collocation of medical headquarters functions within the National Capitol Region. These scenarios included collocation into space made available by the candidate recommendation to close the Uniformed Services University of Health Sciences (USUHS), as well as building space at Ft Belvoir, VA, and Bethesda, MD. The financial analysis of these scenarios is detailed below. The IEC decision to retain USUHS, the only financially viable receiving location, eliminated further discussion on the collocation of medical headquarters in the National Capitol Region.

	To Ft Belvoir	To Bethesda	To USUHS
One Time Costs	\$94.3M	\$107.3M	\$51.5M
Net Implementation Costs	\$77.1M	\$89.0M	\$29.4M
Annual Recurring Savings	\$6.2M	\$6.6M	\$8.0M
Payback Period	19 Years	20 Years	6 Years
NPV at 2025	\$10.2M (Cost)	\$17.0M (Cost)	\$47.4M (Savings)

Memorandum for BRAC Commissioners

From: Charlie Battaglia 

Subj: BRAC Matters

Date: July 1, 2005

While we have e-mailed or faxed you a copy of the letter to Secretary of Defense Rumsfeld seeking explanation on why certain facilities were not closed or realigned, the importance of the letter and its enclosure moves me to ensure that you have received a copy. I am enclosing another copy in the event you did not receive yours. It was hand-delivered to the Office of SecDef on Friday morning. The letter, hopefully, is self-explanatory.

Even before we issued the letter, in fact the day before, the phones were ringing from distressed Congressional offices. I have an internal problem on leaks.

In addition, we sent a copy of the letter to every affected Congressional office rather than have Senators and Congressmen speculate or read about the letter in the press. Today, the letter to SecDef and the enclosure will be posted on our website.

I am also enclosing some talking points which I encourage you to read.

Finally, I want to run the schedule again in the attached.

July 1, 2005

BRAC Commission Schedule

Mon, Jul 18 - Washington DC

8:30 AM – Hearing with SecDef or his rep testifying on his response to our July 1 letter.

10:30 AM – Hearing on the GAO report (copy attached) which analyzed DoD's selection process and recommendations for base closure.

Witness: Comptroller General David Walker

1:00 PM Hearing to receive testimony from the Overseas Basing Commission on its findings and recommendations

Witnesses: Six OBC Commissioners

Tue, Jul 19 – Washington DC

1:00 PM Public Hearing to vote on the Commission adds list

Witnesses: Commission Staff will present each proposal followed by a Commission vote on each proposal.

(Note: The Monday schedule is to permit timely 45 day notice in the Federal Register of the Commission's adds. The Tuesday afternoon session is planned to permit staff time to analyze the SecDef letter response and his testimony on Monday).

Depending on the adds vote, there will be more base visits involving 2 or more Commissioners and regional hearings.

Week of August 15

Two days of hearings are planned to permit the SecDef or his representative to reclama our adds before a final vote. Also, to hear from witnesses on the environmental and economic impact and costs of the SecDef recommendations. Witnesses TBD.

Week of August 22-25

Four days of deliberation and voting on the SecDef recommendations and the Commission adds.

September 8, 2005 - Report to the President



DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

2521 South Clark Street, Suite 600
Arlington, VA 22202
Telephone: 703-699-2950

July 1, 2005

The Honorable John Warner
United States Senator
225 Russell Senate Office Building
Washington, DC 20510

Dear Senator Warner,

You will find enclosed a letter that I sent today to the Secretary of Defense. Based upon the data provided by the Department of Defense, the facts we gathered during our site visits and regional hearings, and comments we received from the public, the Commission believes it necessary to ask the Secretary of Defense to provide an explanation to questions posed in the enclosure to my letter.

Please be assured that the Commission has not decided to close or realign any installations. Indeed, the Defense Base Closure and Realignment Act of 1990 states that before the Commission can even consider making any changes in the Secretary of Defense's BRAC recommendations to add military installations for closure or realignment, it must seek an explanation from the Secretary on the reasons why he did not include such installations in his May 13 list.

We are in the early stages of a multi-step process. Our request of the Secretary is merely for additional data and analysis so that the Commission will be more fully and broadly informed before deciding whether or not to formally consider adding installations to his list.

On July 19, the Commission will consider additions to the Secretary's list in open session. As you are aware, seven or more Commissioners must support adding an installation to the Secretary's list for consideration followed by at least two Commissioners visiting each of the installations in question and public hearings conducted regarding them.

At the Commission's final deliberations the week of August 22, the vote of at least seven Commissioners would be required to effect any change in the Secretary's recommendations.

I respectfully request your assistance in advising the communities concerned that this is a very preliminary stage of the statutory process. The Commission is inquiring, not deciding. Even if, at the July 19, 2005 deliberation, seven Commissioners support formal consideration of an installation, the final outcome is far from certain. It will be critical that we obtain the public's advice, assessments, and analyses at follow-on public hearings to assist us in making the best possible decisions. They must know that the Commission retains an open mind of all matters and that we need their continuing assistance.

Sincerely,

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



DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

2521 South Clark Street, Suite 600
Arlington, VA 22202
Telephone: 703-699-2950

July 1, 2005

The Honorable Donald H. Rumsfeld
Secretary of Defense
1400 Defense Pentagon
Washington, D.C. 20301-1000

Dear Secretary Rumsfeld:

As you are aware, before the Base Closure and Realignment Commission can even consider making a change in your recommendations that would add military installations for closure or realignment, or expand a realignment, we are required by Section 2914(d)(3) of the Defense Base Closure and Realignment Act of 1990, as amended, to seek an explanation from you as to why such actions were not included on your May 13, 2005 list. A series of issues on installations on which we seek such explanation is enclosed. No deliberation will be made on whether to include any of these installations for further study of closure or realignment until the Commission's open hearing of July 19, 2005. Therefore, we would greatly appreciate receipt of your explanation no later than July 18th.

In addition, we invite you or your representative to elaborate on these explanations at a public hearing to be held in the Washington, D.C. area at 8:30 a.m. on July 18, 2005.

If, at the July 19 hearing, seven or more Commissioners support adding an installation to your list for consideration, at least two Commissioners will visit each of the installations added to your list and public hearings will be conducted regarding them. While this is a requirement of law, the Commission's view is that such public hearings are not only mandatory, but also highly desirable.

At the Commission's final deliberations during the week of August 22, the vote of at least seven Commissioners will be required to effect any change in your recommendations that would close or realign an installation that you did not recommend for such closure or realignment, or expand a realignment that you recommended.

Your assistance in complying with this stringent timetable will be greatly appreciated.

Sincerely,

Anthony J. Principi
Chairman

Enclosure

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

1. MARINE CORPS RECRUIT DEPOT SAN DIEGO, CA

ISSUE:

- Why was Marine Corps Recruit Depot (MCRD) San Diego, CA, not closed and consolidated with Marine Corps recruit training at MCRD Parris Island, SC?

ISSUE BACKGROUND:

- The Marine Corps operates two stand-alone recruit depots -- one on each coast. Consolidation of all recruit training to MCRD Parris Island generates training efficiencies, reduces excess capacity, and saves recurring costs due to fence-line closure of MCRD San Diego, and may generate offsetting revenues due to potential commercial development after a DoD property transfer. Consolidating recruit training at one location may theoretically increase operational risks; however, the Department of Navy and Air Force have successfully implemented similar transformational options experiencing little or no actual risk to recruit training while maintaining a surge capability. Military value of MCRD San Diego is lower than MCRD Parris Island partially due to encroachment and land constraints.

ASSOCIATED DOD RECOMMENDATIONS:

- None
-

2. NAVAL SHIPYARD PEARL HARBOR, HI

ISSUE:

- Why was the Naval Shipyard Pearl Harbor, HI, not closed and the ship depot repair function realigned to Naval Shipyard Norfolk, VA; Naval Shipyard Portsmouth, ME; and Naval Shipyard Puget Sound, WA?

ISSUE BACKGROUND:

- Four naval shipyards perform depot-level ship refueling, modernization, overhaul and repair work. There appears to be sufficient excess capacity in the aggregate across the four shipyards to close either Naval Shipyard Pearl Harbor or Naval Shipyard Portsmouth. Naval Shipyard Pearl Harbor is less efficient than Naval Shipyard Portsmouth, according to Department of Navy data and additional savings could be found from reduced unit costs at the receiving shipyards because of a higher volume of work. Naval Shipyard Pearl Harbor has low military value compared to other shipyards according to DoD analysis supporting the recommendation to close Naval Shipyard Portsmouth.

ASSOCIATED DOD RECOMMENDATIONS:

- DON-23: Close Naval Shipyard Portsmouth, ME

3. NAVAL AIR STATION BRUNSWICK, ME

ISSUE:

- What considerations were given to a complete closure of Naval Air Station Brunswick, ME, and what were the driving factors in deciding on realignment?

ISSUE BACKGROUND:

- Closure would appear to reduce excess capacity, may save approximately four times more than DoD's realignment recommendation and could open land to State or community development to offset economic impact.

ASSOCIATED DOD RECOMMENDATIONS:

- DON-18: Realign Naval Air Station Brunswick, ME
-

4. NAVY BROADWAY COMPLEX, SAN DIEGO, CA

ISSUE:

- Why was the Navy Broadway Complex, San Diego, CA, not considered for closure and realignment of existing functions to Naval Station San Diego, CA?

ISSUE BACKGROUND:

- Consolidating Navy activities in a more secure location at the Naval Station complex at 32nd Street could improve security and allow for future commercial development.

ASSOCIATED DOD RECOMMENDATION:

- None
-

5. REALIGNMENT OF NAVAL MASTER JET BASE

ISSUE:

- What consideration was given to the realignment of the Master Jet Base located at NAS Oceana, VA, to Moody AFB, GA? Was movement of the assets assigned to Moody AFB, GA to Cannon AFB, NM, considered and if so, what were the driving considerations not to do so?

ISSUE BACKGROUND:

- Realigning the Master Jet Base at NAS Oceana, VA, to Moody AFB, GA, would appear to alleviate the severe encroachment which affects NAS Oceana training and operations as well as operations at the outlying field, Fentress OLF. Moody AFB, GA, would appear to have the necessary room for expansion and suffers less encroachment. Cannon AFB, NM, would appear to have ample space and facilities to accommodate any aircraft currently operating or planned for movement to Moody AFB, NM.

ASSOCIATED DOD RECOMMENDATION:

- AF-6: Realign Eielson AFB
 - AF-32: Close Cannon AFB
 - AF-35: Maintenance realignment from Shaw AFB
 - E&T-14: Realignment of Undergraduate Pilot Training.
-

6. GALENA AIRPORT FORWARD OPERATING LOCATION (FOL), AK

ISSUE:

- Was any consideration given to merging the missions of Galena FOL, AK, and Eielson AFB, AK? Why does the United States need to maintain two FOLs in Alaska, given the current national security environment and 20-year threat assessment?

ISSUE BACKGROUND:

- Galena is one of two FOLs in Alaska that serve as alert bases for air intercept aircraft in support of North American Aerospace Defense Command (NORAD) missions. The requirement for maintaining two FOLs in Alaska may no longer be valid. The mission could be accomplished by maintaining one FOL and two Air Force bases in Alaska.

ASSOCIATED DOD RECOMMENDATIONS:

- AF-6: Eielson AFB, AK; Moody AFB, GA; and Shaw AFB, GA
 - AF-7: Kulis Air Guard Station, AK; and Elmendorf Air Force Base, AK
 - AF-18: Mountain Home Air Force Base, ID; Nellis Air Force Base, NV; and Elmendorf Air Force Base, AK
 - AF-43: Ellsworth Air Force Base, SD; and Dyess Air Force Base, TX
-

7. POPE AIR FORCE BASE, NC

ISSUE:

- What considerations drove the recommendation to realign, rather close Pope AFB NC, under Fort Bragg, NC? Are the joint operational synergies that exist between the XVIII Airborne Corps and the 43rd Airlift Wing/23rd Fighter Group able to be replicated from other locations?

ISSUE BACKGROUND:

- DoD appears to have determined that much of the benefits of the collocation of the joint forces that will operate together (CAS aircraft, operational planning staffs) are outweighed by the ability to schedule support as necessary through third parties.

ASSOCIATED DOD RECOMMENDATIONS:

- USA-8: Fort Gillem, GA
- USA-8: Fort McPherson, GA
- AF-35: Pope Air Force Base, NC, Pittsburgh International Airport Air Reserve Station, PA; and Yeager Air Guard Station, WV
- H&SA-35: Create Joint Mobilization Sites

8. GRAND FORKS AIR FORCE BASE, ND

ISSUE:

- What considerations drove the recommendation to realign rather than close Grand Forks AFB, ND? What is the number of UAVs planned for assignment to Grand Forks AFB, ND, and what is the timing of the potential deployment?

ISSUE BACKGROUND:

- While there is no “emerging mission” programmed within the BRAC timeline (2006-2011), there are indications that the Air Force is considering assigning UAVs to Grand Forks AFB, ND.

ASSOCIATED DOD RECOMMENDATIONS:

- AF-37: Grand Forks Air Force Base, ND
-

9. AIR NATIONAL GUARD

ISSUE:

- Were the Adjutants General and Governors of the States consulted in the re-allocation of aircraft, personnel, facilities and missions from their states? What impact does the realignment of the ANG have on the homeland defense and homeland security missions?

ISSUE BACKGROUND:

- Many of the Air Force’s recommendations address Air National Guard installations. While only four of these installations will completely close, many Guard installations will lose aircraft and personnel leaving only an “expeditionary combat support” unit remaining, with several states losing their entire flying missions. Many of these aircraft will relocate to other locations, which may negatively impact personnel recruiting and retention as well as State and Homeland Security missions.

ASSOCIATED DOD RECOMMENDATION:

- Various
-

10. DEFENSE FINANCE ACCOUNTING SERVICE

- DFAS Buckley Annex, CO
- DFAS Columbus, OH
- DFAS Indianapolis, IN

ISSUE:

- Why were keeping DFAS Buckley Annex, CO, DFAS Columbus, OH, and DFAS Indianapolis, IN, open and closing the remaining DFAS sites the only scenario

Congress of the United States

Washington, DC 20510

July 14, 2005

General Lloyd Newton, USAF (Ret.)
Base Realignment and Closure Commission
2521 South Clark Street
Arlington, VA 22202

Dear General Newton:

At the July 6, 2005 regional hearing in Boston, Massachusetts, you requested additional information with regard to the DFAS Limestone Field Site. Specifically, you requested that we provide the Commission with information detailing the estimated cost to increase the number of positions at Limestone to 600 and to 1,000. The information you requested is attached. We certify that the attached information is accurate and complete to the best of our knowledge.

As was presented in Boston, the Limestone facility can accommodate an additional 239 people for a total of 480 people with no military construction costs. Growing DFAS Limestone to 600 employees can easily be accomplished with minor facility upgrades such as modifying existing space and purchasing work stations. Cyr Construction of Caribou, Maine, has estimated the cost of these upgrades to be approximately \$1.2 million.

Expanding the facility by an additional 400 employees to a total of 1,000 workers would require construction of an addition to the existing facility. The DFAS Limestone facility sits on 15 acres of open land, so expansion is not a problem. The Loring Development Authority has agreed to donate the land necessary for expansion, including parking spaces and buffer areas, at no cost.

Cyr Construction has provided a certified estimate that the cost of construction of a two story, 70,000 square foot addition, including data and communications infrastructure, would be \$6.3 million. Adding workstations for 400 employees would cost an additional \$1.88 million. The total cost of the addition would be \$8.18 million.

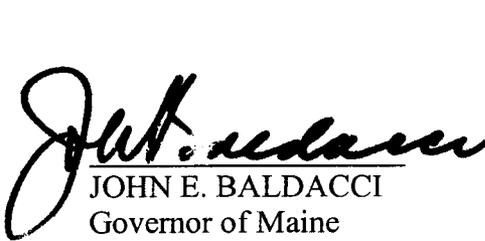
We have included the results of COBRA runs for three scenarios: increasing Limestone's workforce to 480; increasing it to 600; and increasing it to 1,000 positions. For each personnel level, we ran the COBRA model using DoD generic assumptions for military construction costs, and using certified data for military construction costs at the Limestone Field Site provided by Cyr Construction, a local contractor who has performed extensive work at the site. **These COBRA runs show that in all cases, greater savings can be achieved by expanding DFAS Limestone instead of closing it as recommended by the DoD.**

We also have included information detailing how the workforce would be expanded to meet these increased personnel milestones.

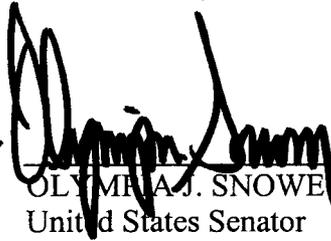
As we discussed at the July 6 hearing, the attached information demonstrates that increasing personnel at the Limestone Field Site would maximize savings and reduce costs overall relative to the DFAS consolidation proposal put forward by the DoD.

Please do not hesitate to contact us if you need any additional information in performing your vital mission.

Sincerely,



JOHN E. BALDACCI
Governor of Maine



OLYMPIA J. SNOWE
United States Senator



SUSAN M. COLLINS
United States Senator



THOMAS H. ALLEN
United States Representative



MICHAEL H. MICHAUD
United States Representative

cc: Sec. Anthony Principi, Chairman, 2005 Base Realignment and Closure Commission
Hon. James Bilbray, Member
Hon. Philip Coyle, Member
ADM Harold Gehman, USN (ret), Member
Hon. James Hansen, Member
Gen. James Hill, USA (ret), Member
Hon. Samuel Skinner, Member
Gen. Sue Ellen Turner, USAF (ret), Member

DFAS
Limestone

A Compelling Case
For Growth

Response to Request from General Lloyd Newton at

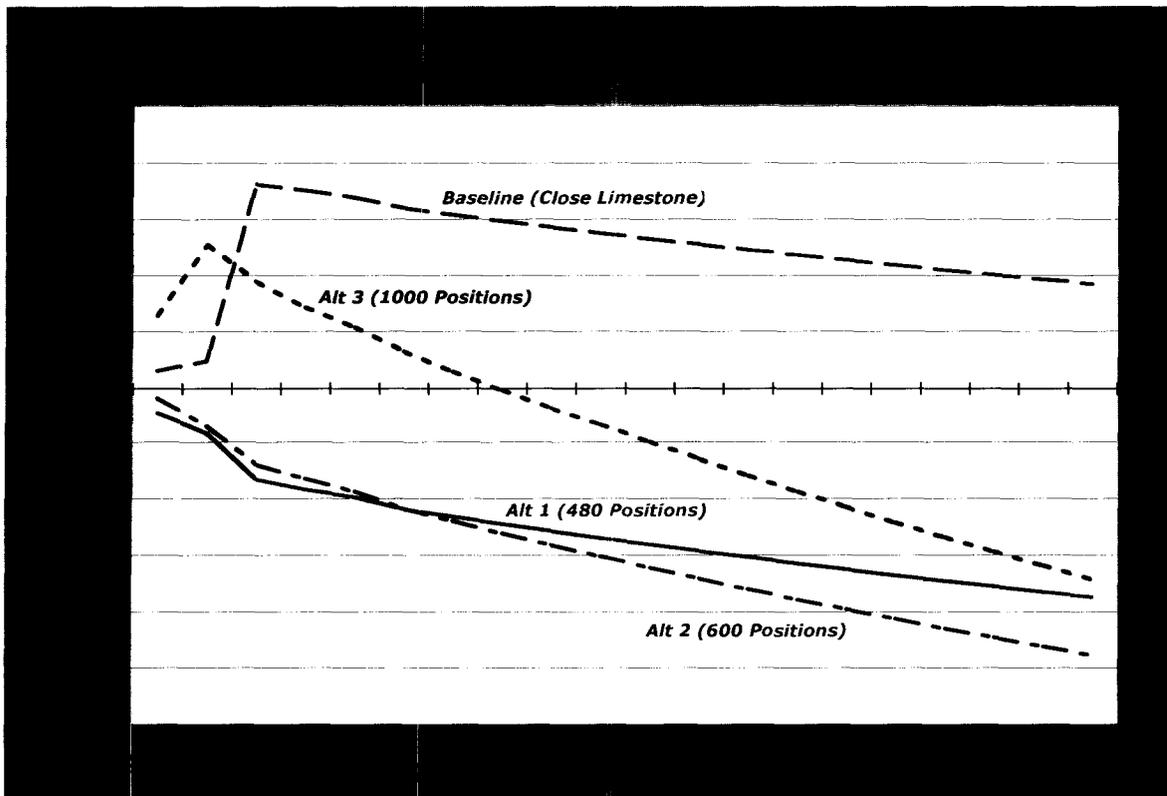
July 6, 2005

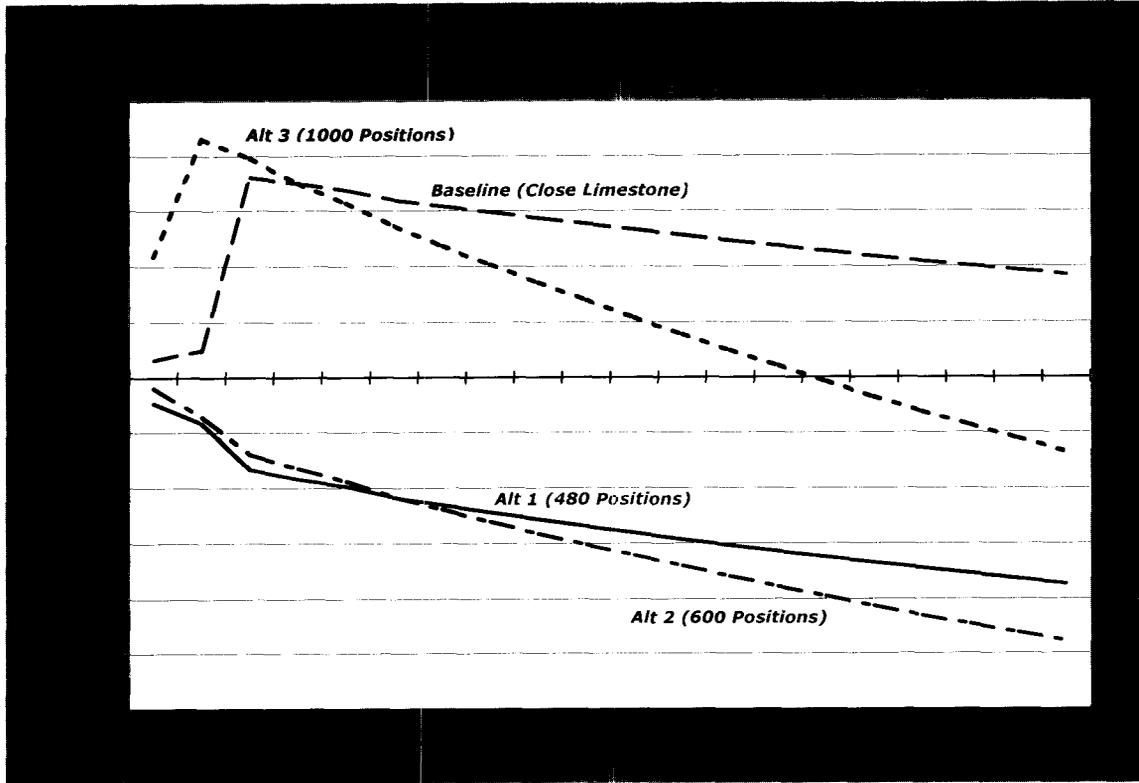
BRAC Commission Hearing in
Boston, Massachusetts

COST ANALYSIS FOR THREE ALTERNATIVES

At the July 6 hearing, General Newton asked for information regarding the ability of the DFAS Limestone Field Site to expand from its current size of 353 positions to 1,000 positions.

To prepare our response, we asked Ed Anderson, an expert from the firm of Conklin & de Decker Associates hired by the State of Maine, to perform COBRA runs for three scenarios: expanding Limestone to 480 positions; expanding Limestone to 600 positions, and expanding Limestone to 1,000 positions. Mr. Anderson ran the COBRA model using the same certified data relied upon by the Department of Defense in formulating its recommendations. In addition, he ran the COBRA model using certified construction cost estimates for military construction costs at Limestone that were supplied by Cyr Construction Company, a local contractor who has previously done significant construction work at the Limestone facility. Cyr's cost estimates reflect the local Northern Maine construction market, and are tailored to the actual addition that would be needed if Limestone were expanded. Therefore, their estimates are more accurate than DoD's generic construction cost estimates. The results of these COBRA analyses are shown in the charts below. A detailed description of each option follows.





Summary of Costs and Savings for Three Alternatives Relative to DoD's Proposal (in \$ Thousands):¹

Total One-time Costs

	Based on Cyr Estimates	Based on Default Settings
Alt 1 (480)	(10,362)	(10,753)
Alt 2 (600)	(9,681)	(9,650)
Alt 3 (1000)	(2,702)	1,581

20-Year Net Present Value Savings

	Based on Cyr Estimates	Based on Default Settings
Alt 1 (480)	11,168	11,553
Alt 2 (600)	13,245	13,215
Alt 3 (1000)	10,526	6,386

¹ The numbers on these charts represent the difference between the Baseline DoD proposal to close Limestone (shown in the dashed red line) and the line representing the particular alternative.

I. Limestone grows to 480 positions

Summary: The DFAS Limestone Field Site has sufficient excess capacity – in the form of currently empty space -- to accommodate an additional 239 positions.² Accordingly, the COBRA model does not assume that there would be any military construction necessary to reach this personnel milestone. In fact, there would be minor costs associated with securing and installing workstations for the new employees. Because there are surplus workstations already on site at Limestone, the only required change to the facility is the addition of 92 workstations. Cyr Construction Company has provided a certified estimate that the cost for adding these 92 workstations is \$391,000. However, this cost is more than off-set by the \$3.9 million saved in military construction costs at Columbus under this scenario. As discussed in the submissions of Carl Flora and Galen Rose, Acting State Economist, attached hereto,³ the local workforce can easily accommodate this expansion from the ranks of skilled workers currently employed in similar occupations at lower pay in Aroostook County, the “shadow workforce” of individuals who would return to Aroostook County if there were the opportunity, and individuals from other DFAS facilities slated for closure who would choose to relocate to Limestone.

COBRA Model results using Certified Data for Military Construction Costs:⁴

Military Construction Costs (Savings)

- Columbus MilCon = \$3.898 million saved⁵
- Limestone MilCon = \$391,000⁶ cost
- MilCon Net = \$3.507 million saved

Costs (Savings) Relative to Status Quo:

- One-time costs = \$2.56 million saved
- Twenty-year NPV = \$9.35 million saved

Costs (Savings) Relative to DoD Proposal:

- One-time costs = \$10.36 million saved⁷
- Twenty-year NPV = \$11.168 million saved

² Although there currently are 353 employees working at DFAS Limestone, DoD’s COBRA model assumes that there are 241 employees because that is the planned future workforce. We have used the same DoD assumption with regard to future planned personnel at Limestone in all our COBRA runs.

³ See Attachment C, Certified letters from Carl Flora, President and CEO, Loring Development Authority, and Galen Rose, Acting State Economist, State of Maine.

⁴ See Attachment A, Certified COBRA Runs, prepared by Ed Anderson, July 13, 2005.

⁵ Each of the three scenarios under which Limestone is expanded avoids spending this \$3.9 million in military construction costs at DFAS Columbus.

⁶ See Attachment B, Certified Construction Cost Estimates, prepared by Cyr Construction Company, June 24, 2005. These funds would be used to purchase 92 additional workstations. Id.

⁷ The costs avoided are: \$3.507 million in military construction costs, \$5.688 million in moving costs, and \$1.168 million in personnel costs.

Conclusion: Realigning DFAS Limestone as a receiver site growing to 480 positions would produce an immediate, substantial return on investment, strengthening the overall case for DFAS consolidation in the process. The government would achieve a net savings of over \$3 million in military construction costs. By pursuing this scenario, instead of the one proposed by the DoD, the government would save over \$10 million in implementation costs and have a twenty-year net present value savings of over \$11 million. There is no material difference between the outcome using Cyr Construction cost estimates versus DoD's generic construction cost assumptions.

II. Limestone grows to 600 positions

Summary: The DFAS Limestone Field Site has sufficient excess capacity – in the form of currently empty space and space being used for other purposes such as storage -- to accommodate an additional 359 positions without any addition to the facility. Cyr Construction Company has provided a certified estimate that the cost for this work is \$1,199,000. These funds would be used to modify spaces within the Limestone facility that need minor renovation such as by hanging a suspended ceiling in order to accommodate employees, and to purchase workstations for the new employees.

As discussed in the submissions of Carl Flora and Galen Rose, Acting State Economist, attached hereto,⁸ the local workforce can easily accommodate this expansion from the ranks of skilled workers currently employed in similar occupations at lower pay in Aroostook County, the “shadow workforce” of individuals who would return to Aroostook County if there were the opportunity, and individuals from other DFAS facilities slated for closure who would choose to relocate to Limestone.

COBRA Model results using Certified Data for Military Construction Costs:⁹

Military Construction Costs (Savings)

- Columbus MilCon = \$3.898 million saved
- Limestone MilCon = \$1.199 million¹⁰ cost
- MilCon Net = \$2.699 million saved

Costs (Savings) Relative to Status Quo:

- One-time costs = \$1.875 million saved
- Twenty-year NPV = \$11.426 million saved

Costs (Savings) Relative to DoD Proposal:

⁸ See Attachment C, Certified letters from Carl Flora, President and CEO, Loring Development Authority, and Galen Rose, Acting State Economist, State of Maine.

⁹ See Attachment A, Certified COBRA Runs, prepared by Ed Anderson, July 13, 2005.

¹⁰ See Attachment B, Certified Construction Cost Estimates, prepared by Cyr Construction Company, June 24, 2005. These funds would be used to purchase 92 additional workstations. Id.

- One-time costs = \$9.681 million¹¹ saved
- Twenty-year NPV = \$13.245 million saved

Conclusion: Realigning DFAS Limestone as a receiver site growing to 600 positions would produce an immediate, substantial return on investment, strengthening the overall case for DFAS consolidation in the process. By pursuing this scenario, instead of the one proposed by the DoD, the government would save \$9.7 million in implementation costs and produce a twenty-year net present value savings of over \$13 million. There is no material difference between the outcome using Cyr Construction cost estimates versus DoD's generic construction cost assumptions.

III. Limestone grows to 1,000 positions

Summary: In order to expand the workforce to 1,000, the DFAS Limestone facility would need to build an addition with approximately 70,000 square feet of new administrative space. This would produce a facility with a combined total of 211,000 square feet of space (or roughly 210 square feet per employee). The addition could rely upon the same heating and air conditioning systems in the existing building as well as some of the existing building's other spaces such as its cafeteria. Cyr Construction Company has provided a certified estimate that the cost for this work is \$9,379,000.

There are currently 353 employees at DFAS Limestone, so this change would require the hiring of 647 additional employees over the next several years. As discussed in the submissions of Carl Flora and Galen Rose, Acting State Economist, attached hereto,¹² the local workforce can accommodate this expansion from the ranks of skilled workers currently employed in similar occupations at lower pay in Aroostook County, the "shadow workforce" of individuals who would return to Aroostook County if there were the opportunity, and individuals from other DFAS facilities slated for closure who would choose to relocate to Limestone.

COBRA Model results using Certified Data for Military Construction Costs:¹³

Military Construction Costs (Savings)

- Columbus MilCon = \$3.898 million saved
- Limestone MilCon = \$9.379 million¹⁴ cost
- Net MilCon = \$5.481 million cost

Costs Relative to Status Quo:

¹¹ The costs avoided are: \$2.699 million in military construction costs, \$5.927 million in moving costs, and \$1.055 million in personnel costs.

¹² See Attachment C, Certified letters from Carl Flora, President and CEO, Loring Development Authority, and Galen Rose, Acting State Economist, State of Maine.

¹³ See Attachment A, Certified COBRA Runs, prepared by Ed Anderson, July 13, 2005.

¹⁴ See Attachment B, Certified Construction Cost Estimates, prepared by Cyr Construction Company, June 24, 2005. These funds would be used to purchase 92 additional workstations. Id.

- One-time costs = \$5.104 million cost
- Twenty-year NPV = \$8.707 million saved

Costs (Savings) Relative to DoD Proposal:

- One-time costs = \$2.402 million saved¹⁵
- Twenty-year NPV = \$10.526 million saved

Conclusion: Realigning DFAS Limestone as a receiver site for 1,000 positions would require, based on the Cyr Construction Company cost estimates, a smaller initial investment than the scenario proposed by DoD. Although the military construction costs create a larger one-time cost than in the other two scenarios, there is a four year pay-back for these costs. By pursuing this scenario, instead of the one proposed by DoD, the government would save \$2.4 million in implementation costs and would produce twenty-year net present value savings of over \$10.5 million.

Using the less accurate generic DoD assumptions for military construction costs produces a larger one-time cost of \$1.581 million versus the \$2.4 million in savings using the certified Cyr estimates. It produces an eleven-year payback versus a four-year payback produced using the Cyr estimates. However, the generic assumptions produce a twenty-year net present value savings of \$6.386 million. Thus, regardless of the construction cost estimates used, the COBRA model demonstrates that it is always in the government's long-term interest to expand the DFAS Limestone facility.

¹⁵ These costs are: \$5.481 million in military construction costs, \$7.189 million in avoided moving costs, and \$994,000 in avoided personnel costs.

Attachment A

Certified COBRA Runs

Prepared by:

Ed Anderson, Aviation Management Consultant

Conklin & de Decker Associates

July 14, 2005

Ed Anderson, Aviation Management Consultant

Conklin & de Decker Associates

July 14, 2005

Introduction

For BRAC 2005, the Defense Department has proposed consolidating 26 DFAS facilities into three receiver sites:

- DCS Columbus, Ohio
- DFAS Indianapolis, Indiana
- ARPC Denver, Colorado

The proposed consolidation promises to produce substantial long-term savings due primarily to the elimination of 1,206 positions as a result of improved efficiencies. These savings are partially offset by one-time costs such as military construction at Columbus, personnel costs (primarily civilian RIF costs), and moving costs.

Savings are also affected by recurring cost factors that vary among locations. They include civilian location factor (local pay adjustment), per diem costs and operating costs per square foot (overhead). The following table compares these factors for the three receiver facilities to those at DFAS Limestone.

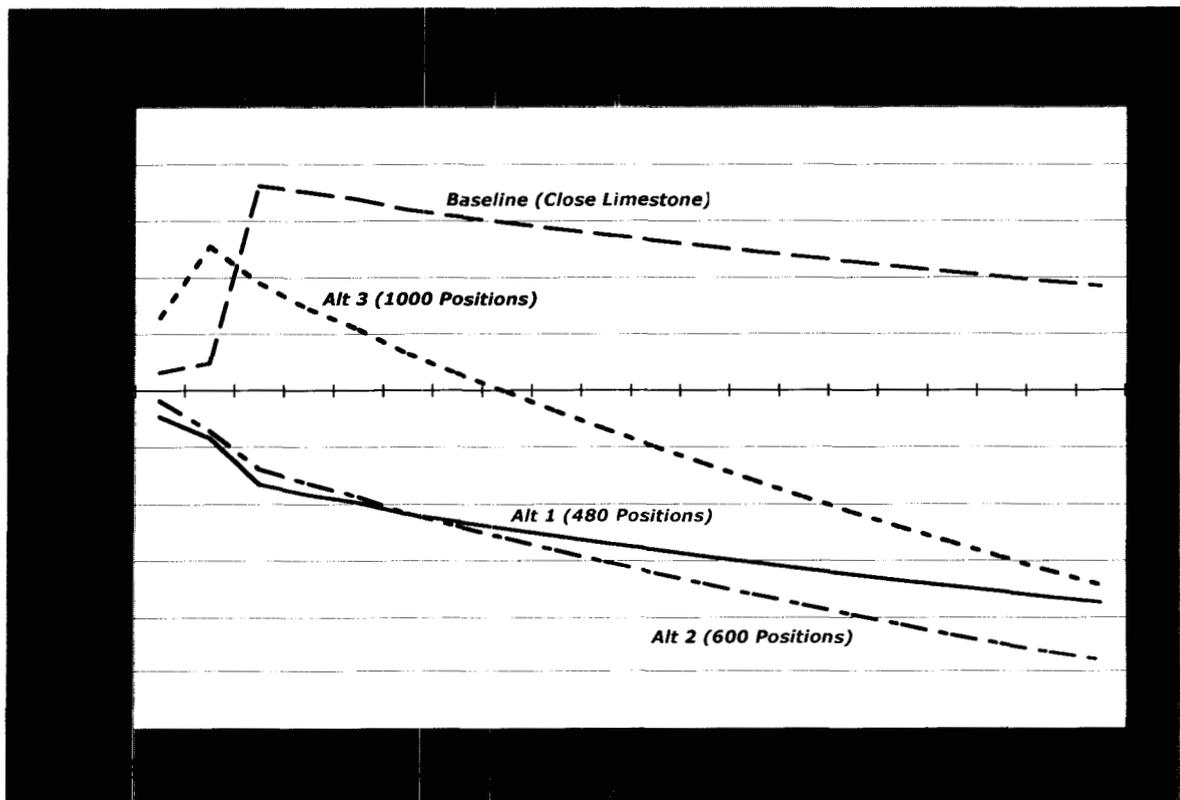
	Civ. Location Factor	Per Diem Rate	Operating Cost per Square Foot	MILCON Required?
DCS Columbus	1.131	\$ 118	\$ 8.27	Yes
DFAS Indianapolis	1.111	\$ 134	\$ 14.96	No
ARPC Colorado	1.167	\$ 159	\$ 9.15	No
DFAS Limestone	1.109	\$ 91	\$ 4.98	No

Representatives of DFAS Limestone interests have questioned whether three is the optimum number of receiver sites. They have suggested that retaining Limestone as a fourth receiver site and growing the facility will produce additional savings. According to this theory, costs would be saved by eliminating moving costs for 234 positions and by eliminating MilCon costs at Columbus. Recurring savings would also result from the lower personnel costs and overhead at Limestone.

The following analysis uses the DoD COBRA model to analyze the Return On Investment for the DoD's recommended scenario (HSA0018) for closing DFAS Limestone and explores three alternative scenarios. The four scenarios evaluated are:

- Baseline. Close Limestone – as per Scenario HSA0018
- Alternative 1. Grow Limestone to 480 Positions
- Alternative 2. Grow Limestone to 600 Positions
- Alternative 3. Grow Limestone to 1000 Positions

The following chart shows the comparative Net Present Value costs of these four alternatives. This analysis is based on Limestone MilCon cost estimates certified by Cyr Construction Company.



The following table summarizes the results.

Grow Limestone Alternatives Based on Certified MilCon Cost Estimates for Limestone

	Baseline (0)	Alt 1 (480)	Alt 2 (600)	Alt 3 (1000)
Payback	25 Years	Immediate	Immediate	4 Years
NPV Cost in 2025 (\$K)	3,672	-7,493	-9,568	-6,851
1-Time Cost (\$K)	7,806	-2,556	-1,875	5,104
Total Investment (\$K):				
MilCon	1,416	-2,091	-1,283	6,897
Personnel	1,106	-62	51	112
Moving	5,284	-404	-643	-1,905
Overhead	0	0	0	0
Other	0	0	0	0
TOTAL	7,806	-2,556	-1,875	5,104
Recurring Costs/Year (\$K)				
Personnel	-253	-315	-378	-1,124
Overhead	148	-240	-281	-460
Mission	-170	238	128	756
Other	0	0	0	0
TOTAL	-275	-317	-531	-828
Limestone Position Changes				
Before BRAC	241	241	241	241
Positions Eliminated	-7	0	0	0
Positions Realigned	-234	239	359	759
After BRAC	0	480	600	1,000

Recommendation: The Return On Investment for DFAS consolidation will be improved significantly by retaining DFAS Limestone as a receiving site and growing Limestone to 600 positions. This alternative would produce an immediate, substantial return on investment, strengthening the overall case for DFAS consolidation in the process. By pursuing this scenario, instead of the one proposed by DoD, the government would save over \$9.6 million in implementation costs with a 20-year NPV savings of over \$13.2 million.

Methodology

The COBRA model is limited to handling 20 bases in a single realignment scenario. When a scenario consists of more than 20 bases (as is the case with the DFAS consolidation), it must be broken down into two parts. Then an ADDER model is used to sum the results for the entire scenario.

The method used in our analysis was to start by running Part 1 of the DoD recommended scenario HS0018. The cost impact of each alternative investigated was determined by changing the inputs as required to define the alternative, then running the COBRA model again. Then, the new results were compared to the original results using an Excel spreadsheet to calculate the differences. This is analogous to determining the weight of a slice of pie by weighing the pie before and after the slice is removed.

By using this approach, we were able to maintain consistency with the original model and ensure that extraneous factors did not contaminate the analysis.

The Baseline Scenario – Close DFAS Limestone

It is clear that the overall business case for DFAS consolidation is compelling. However, the question remains, “Can better results be achieved by retaining Limestone as a receiver facility and relocating personnel from higher cost facilities to Limestone?”

In order to answer this question, we ran an alternative COBRA scenario where the data in the COBRA input fields were changed to indicate no Limestone realignment at all. Then, the new scenario results were compared to the original to measure difference. This difference represents the costs/savings attributable exclusively to the realignment of Limestone.

Limestone Positions:

Before BRAC	241
Gained/eliminated	-7
Realigned	-234
After BRAC	0
Starting Year :	2006
Final Year :	2008
Payback Year :	NA
1-Time Cost (K):	\$7,806
NPV in 2025 (K):	\$3,672 cost

Among other considerations, this scenario would require the renovation of 81,469 square feet of administrative space at a cost of \$3.9 Million. Some 36% of this space is to accommodate 148 positions realigned from Limestone to Columbus, at a cost of \$1.4 million. Personnel and moving costs are \$6.4 million.

Conclusion: While the overall business case for DFAS consolidation is good, the closure of DFAS Limestone would not contribute to that result. In fact, the closure of Limestone would require a one-time investment of \$7.8 million. There would be no NPV savings realized during the 20-year NPV period.

Another way of stating this is, “The business case for DFAS consolidation would be improved if DFAS Limestone were not closed/realigned.”

Alternative 1 – Grow DFAS Limestone to 480 Positions

In this scenario, DFAS Limestone would become a receiver site for 239 additional positions, bringing the total count up to 480. In defining this scenario, we assumed 239 Norfolk positions would relocate to Limestone instead of Columbus. This alternative totally eliminates the need for \$3.9 million in MilCon at Columbus. However, this is partially offset by \$391,000 in costs for 92 additional workstations at Limestone (certified estimate by Cyr Construction). This alternative also produces savings in other areas because personnel costs, overhead, etc. are lower at Limestone than at Columbus and Indianapolis.

Limestone Positions:

Before BRAC	241
Gained/eliminated	0
Realigned	239
After BRAC	480
Starting Year :	2006
Final Year :	2008
Payback Year :	Immediate
1-Time Cost (\$K):	\$2,556 saved
NPV in 2025 (\$K):	\$7,493 saved

When compared to the DoD proposed scenario, this alternative saves costs, as follows:

Net MilCon cost avoidance (\$K)	\$3,507
Moving cost avoidance (\$K)	\$5,688 (234 positions not moved)
<u>Personnel cost avoidance (\$K)</u>	<u>\$1,168</u>
Net 1-Time Costs (K):	\$10,362 saved
NPV in 2025 (K):	\$11,165 saved

Conclusion: Realigning DFAS Limestone as a receiver site would produce an immediate, substantial return on investment, strengthening the overall case for DFAS consolidation in the process. *By pursuing this scenario, instead of the one proposed by DoD, the government would save over \$10.3 million in implementation costs and net 20-year NPV savings of over \$11.1 million.*

Alternative 2 – Grow DFAS Limestone to 600 Positions

In this scenario, DFAS Limestone would become a receiver site for 359 additional positions, bringing the total count up to 600. In defining this scenario, we assumed that 79 positions would relocate from Charleston, SC to Limestone instead of Columbus and that 280 Norfolk positions would relocate to Limestone instead of Columbus and Indianapolis. This scenario requires renovating 24,000 sq ft of administrative space plus 120 additional workstations at Limestone at a cost of \$1.199 million, certified estimate from Cyr Construction Co. (Note: This estimate is consistent with the MilCon Cost of \$1.23 million calculated by COBRA using the default settings.)

It also produces additional savings in other areas because personnel costs, overhead, etc are lower at Limestone than at Columbus and Indianapolis.

Limestone Positions:

Before BRAC	241
Gained/eliminated	0
Realigned	359
After BRAC	600
Starting Year :	2006
Final Year :	2008
Payback Year :	Immediate
1-Time Cost (\$K):	\$1,875 saved
NPV in 2025 (\$K):	\$9,568 saved

When compared to the DoD proposed scenario, this alternative saves costs, as follows:

Net MilCon cost avoidance (\$K)	\$2,699
Moving cost avoidance (\$K)	\$5,927 (234 positions not moved)
<u>Personnel cost avoidance (\$K)</u>	<u>\$1,055</u>
Net 1-Time Cost (K):	\$9,681 saved
NPV in 2025 (K):	\$13,245 saved

Conclusion: Realigning DFAS Limestone as a receiver site would produce an immediate, substantial return on investment, strengthening the overall case for DFAS consolidation in the process. *By pursuing this scenario, instead of the one proposed by DoD, the government would save over \$9.6 million in implementation costs and 20-year NPV savings of over \$13.2 million.*

Alternative 3 – Grow DFAS Limestone to 1000 Positions

In this scenario, DFAS Limestone would become a receiver site for 759 additional positions, bringing the total count up to 1000. In defining this scenario, we assumed that 349 Charleston positions, 130 Sill Oklahoma positions, and 280 Norfolk positions would relocate to Limestone instead of Columbus, Indianapolis and Colorado. This scenario requires renovating 24,000 sq ft of administrative space at Limestone plus a 70,000 square foot addition to the current limestone facility.

In this case MilCon costs were based on a certified estimate of \$9,379,000 provided by Cyr Construction Company. This value is judged to be more accurate than the default value used in the COBRA model because it correctly represents the cost of building an addition to an existing structure, rather than the cost of all new construction.

This alternative represents a lower implementation cost and better financial results than the DoD proposed scenario and shows the potential for future growth at Limestone.

Limestone Positions:

Before BRAC	241
Gained/eliminated	0
Realigned	759
After BRAC	1000
Starting Year :	2006
Final Year :	2009
Payback Year :	4 Years
1-Time Cost (\$K):	\$5,104 cost
NPV in 2025 (\$K):	\$6,851 saved

When compared to the DoD proposed scenario, this alternative saves costs, as follows:

Net MilCon cost (\$K)	\$5,481 cost
Moving cost avoidance (\$K)	\$7,189 (234 positions not moved)
<u>Personnel cost avoidance (\$K)</u>	<u>\$994</u>
Net 1-Time Cost (K):	\$2,702 saved
NPV in 2025 (K):	\$10,526 saved

Conclusion: Realigning DFAS Limestone as a receiver site for 1,000 total positions would require a smaller initial investment than the scenario proposed by DoD. The requirement to construct new facilities at Limestone would result in a four-year payback. This scenario shows excellent potential for accommodating future growth requirements. ***By pursuing this scenario, instead of the one proposed by DoD, the government would save over \$2.7 million in implementation costs and 20-year NPV savings of over \$10.5 million.***

Alternative COBRA Analyses Based on Default MilCon Values

The COBRA model has algorithms for calculating MilCon costs based on standard factors. As a crosscheck against the preceding analyses, we ran the above scenarios using COBRA's default settings. We found the following results (in \$ Thousands):

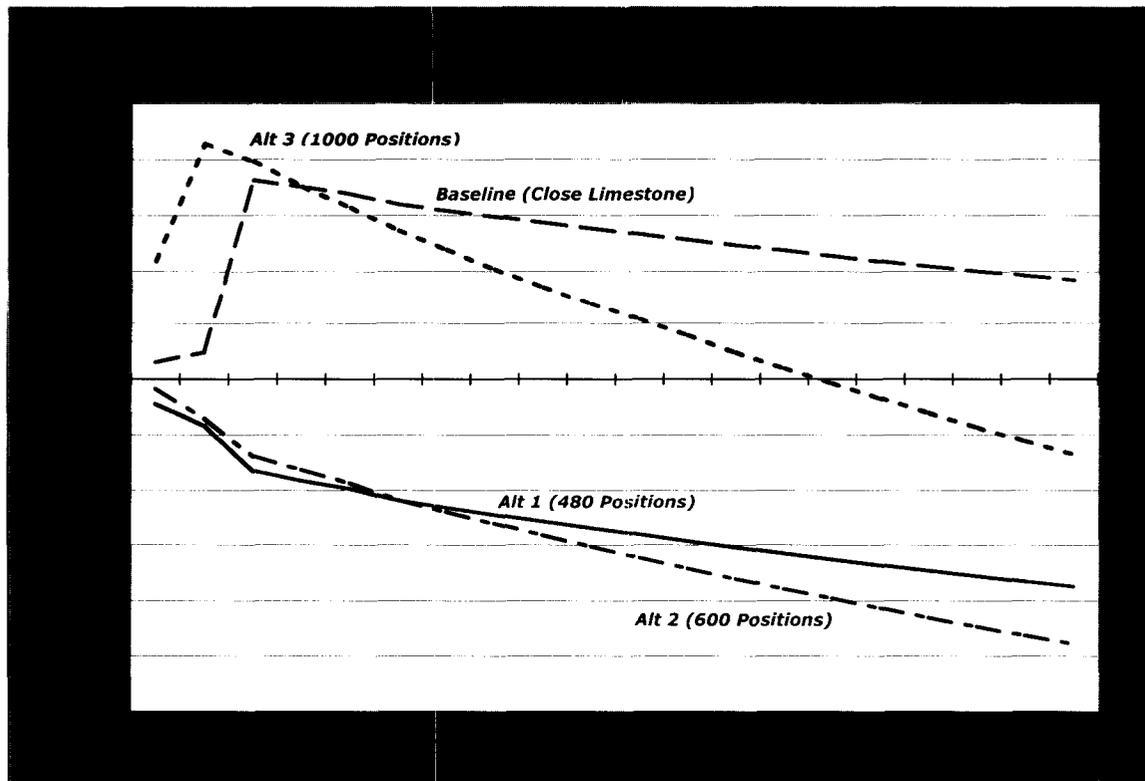
Total One-time Costs

	Based on Cyr Estimates	Based on Default Settings
Alt 1 (480)	(10,362)	(10,753)
Alt 2 (600)	(9,681)	(9,650)
Alt 3 (1000)	(2,702)	1,581

20-Year Net Present Value Savings

	Based on Cyr Estimates	Based on Default Settings
Alt 1 (480)	11,168	11,553
Alt 2 (600)	13,245	13,215
Alt 3 (1000)	10,526	6,386

Only in Alternative 3 was there a significant difference between the results using the two methods. This is due primarily to the fact that the default factor for MilCon is based on all new construction. However, DFAS Limestone has proposed adding 70,000 square feet to an existing building. Costs for this addition would be lower due to fact that the existing physical plant and infrastructure can accommodate this addition. For the record, the results of this alternative analysis are as follows:



Grow Limestone Alternatives Based on Default MilCon Values

	Baseline (0)	Alt 1 (480)	Alt 2 (600)	Alt 3 (1000)
Payback	25 Years	Immediate	Immediate	11 Years
NPV in 2025 (\$K)	3,672	-7,493	-9,568	-2,711
1-Time Cost (\$K)	7,806	-2,556	-1,875	9,387
Total Investment (\$K):				
MilCon	1,416	-2,091	-1,283	11,180
Personnel	1,106	-62	51	112
Moving	5,284	-404	-643	-1,905
Overhead	0	0	0	0
Other	0	0	0	0
TOTAL	7,806	-2,556	-1,875	9,387
Recurring Costs/Year (\$K)				
Personnel	-253	-315	-378	-1,124
Overhead	148	-240	-281	-460
Mission	-170	238	128	756
Other	0	0	0	0
TOTAL	-275	-317	-531	-828
Limestone Position Changes				
Before BRAC	241	241	241	241
Positions Eliminated	-7	0	0	0
Positions Realigned	-234	239	359	759
After BRAC	0	480	600	1,000

Certification Memorandum:

Subject: Base Realignment and Closure (BRAC) 2005 Certification of Information

I certify that the information provided in this analysis is accurate and complete to the best of my knowledge and belief.

Eddie R. Anderson

Aviation Management Consultant

Conklin & deDecker Associates

Attachment B

Certified Construction Cost Estimates

For the Limestone Field Site

Prepared by:

Cyr Construction Company

June 24, 2005

**CYR CONSTRUCTION COMPANY**

GENERAL CONTRACTORS
P.O. BOX 520
CARIBOU, MAINE 04736

PHONE
(207) 498-3481
FAX
(207) 498-2831

June 24, 2005

Carl Flora
Loring Development Authority
154 Development Drive, Suite F
Limestone, ME 04750

Dear Carl:

In 1998 Cyr Construction was awarded the contract to convert the former Loring Air Force Base hospital into the current DFAS facility, including the procurement and installation of the workstations through Uniconr/Federal Prison Systems. We completed the \$6.6M contract four months early and close to a million dollars under budget.

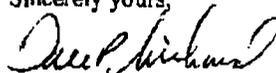
Drawing from our experience with this project and similar others, we are able to provide you with the following estimates:

1. Add 92 workstations in the open area of the existing facility; an estimate of \$391,000.
2. Convert and fixture the first floor Records Warehouse and the second floor Receiving Warehouse with 120 workstations, an estimate of \$808,000.
3. Construct a two story 70,000 square foot addition adjacent to the existing facility:
 - a. Cost of a building addition in a design different from, but complimentary to, the existing facility, based on current market costs, not including workstations, including data and communication s infrastructure, an estimate of \$6,300,000.
 - b. Cost of workstations, an estimate of \$4,700 per station including the wiring thereof.

Architectural and engineering fees would need to be added to the above estimates. These estimates assume the utilization of workstations from Uniconr/Federal Prison Systems matching the existing systems furniture. A substantial savings could be realized if the systems furniture could be procured from a private source.

I hereby certify that this information is accurate and complete to the best of my knowledge.

Sincerely yours,


Dale P. Michaud
Project Manager

Attachment C

Construction Cost Estimates and Workforce Capabilities

Prepared by:

Carl Flora

President and CEO

Loring Development Authority

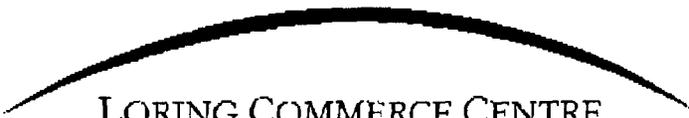
And

Galen L. Rose

Acting State Economist

State of Maine

July 14, 2005



LORING COMMERCE CENTRE

July 14, 2005

General Lloyd Newton, USAF (Ret.)
Base Realignment and Closure Commission
2521 South Clark Street
Arlington, VA 22202

Dear General Newton:

This letter is in response to your request for additional information at the July 6 regional hearing in Boston, Massachusetts.

The Loring Development Authority fully supports expanding the DFAS Limestone Field Site. In connection with the proposal to expand Limestone to 1,000 employees, the Loring Development Authority -- who owns the vacant real estate around the DFAS Limestone Field Site -- stands ready to donate up to ten acres of land at no cost to support such an expansion by adding that acreage to the existing no cost 50 year renewable lease.

In order to grow from its current workforce of 353 to 1,000 employees, DFAS Limestone would need to recruit and hire 647 individuals over the next several years. This hiring would not need to take place immediately since an expansion beyond 600 (absent use of shift work) would require military construction to expand the Limestone facility.

I am familiar with the Aroostook County economy and workforce. I have studied the economic data previously prepared and submitted to the Commission. The information available demonstrates that the local workforce can accommodate an expansion to 1,000 employees. The workers likely would come from several sources.

First, in 2005, there are 2,800 people in Aroostook County currently working in occupations common to DFAS operations. Because DFAS jobs pay 50% more than the average job in Aroostook County, DFAS is, and would continue to be, a regional "employer of choice," luring skilled workers from other employers in the area.

Second, as was described in a study done by the University of Southern Maine Center for Business and Economic Research in October 2004, there is a "shadow workforce" of individuals, including many young people, who have left the County but who would return to Aroostook County if there were suitable career opportunities commensurate with their skills.

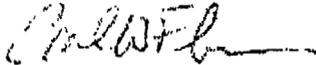
Third, some of the individuals currently employed at other DFAS facilities slated for closure as part of the consolidation plan likely would choose to relocate to Limestone versus moving to a more urban location such as Denver, Indianapolis, or Columbus.

Loring Development Authority of Maine
154 Development Drive, Suite F Limestone, Maine 04750
phone: (207) 328-7005 fax: (207) 328-6811 e-mail: LDA@loring.org

Finally, the certified testimonials already provided to the Commission by companies who have chosen to locate their businesses in Aroostook County attest to the ability of companies to meet their employment needs in Aroostook County. These six companies employ 2,475 skilled workers. Over the past decade, they have successfully recruited, hired, trained, and maintained in the Limestone area a workforce many times larger than the number that would be required to expand the DFAS Limestone facility to 1,000 positions.

This information is accurate and complete to the best of my knowledge.

Very truly yours,



Carl W. Flora
President & CEO



JOHN ELIAS BALDACCI
GOVERNOR

STATE OF MAINE
EXECUTIVE DEPARTMENT
STATE PLANNING OFFICE
38 STATE HOUSE STATION AUGUSTA, MAINE 04333

MARTHA E. FREEMAN
DIRECTOR

July 13, 2005

Secretary Anthony Principi
Chairman, Defense Base Realignment and Closure Commission
2521 S. Clark Street, Suite 600
Arlington, VA 22202

Dear Chairman Principi:

The case has been made in the various documents and oral testimony delivered to the BRAC Commission over the past few weeks that the Limestone, Maine DFAS facility is a prime candidate for expansion. My purpose here is to make a more concise statement of the facts from an economist's point of view as I believe they make a compelling case.

Current employment at the Limestone DFAS is 361. In 2004, the Civilian Labor Force of Aroostook County averaged 36,830, far more than necessary to man a facility of 1,000 or so workers. The principal labor related arguments for an expansion of the Limestone facility can be summarized as follows:

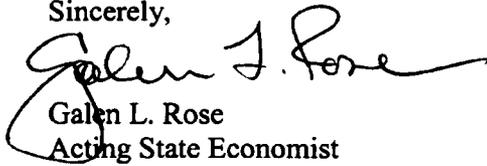
- 1) Current average annual pay at the facility is \$39,000, nearly 60% greater than the average payroll worker in the county earns (\$25,000). These jobs are highly desirable!
- 2) In a recent workforce expansion of 80 jobs, the facility received 400 resumes, a 5 to 1 ratio.
- 3) New hires at the facility take less than 10 days to complete, one of the lowest rates in the DFAS system.
- 4) The turnover rate at the facility is less than 5% per year, compared to 9.2% for the average payroll job in Aroostook County.
- 5) According to a recent Maine Department of Labor study, "There is a substantial pool of people working in related occupations [in Aroostook County] who have the knowledge, skills, and other attributes necessary for success in functions performed in DFAS operations."
- 6) There is a substantial untapped "shadow" labor force consisting of recent out-migrants from Aroostook County, who have left primarily for lack of economic opportunity, and current DFAS employees in other parts of the US who prefer to live in rural areas and would thus not consider transferring to facilities located in metro areas.
- 7) The University of Maine, the Northern Maine Community College campuses in Presque Isle, and Husson College in Caribou offer accounting, business, information systems, and other programs of academic and professional development that will sustain a strong supply of workers with the education and skills necessary for success in DFAS operations.

Clearly, the labor economics prove that the Limestone DFAS facility is an excellent, perhaps unexcelled, candidate for expansion. I believe the facility could be expanded easily to a workforce of 1,000.

We thank you for your consideration of this case and hope that you will share this information with your Commission colleagues.

I hereby certify that the data contained in this letter are true and accurate to the best of my knowledge.

Sincerely,

A handwritten signature in cursive script, appearing to read "Galen L. Rose". The signature is written in black ink and is positioned above the printed name and title.

Galen L. Rose
Acting State Economist