DCN: 12343

August 17, 2005

MEMORANDUM FOR THE CHAIRMAN

VIA: EXECUTIVE DIRECTOR

SUBJ: FINAL DELIBERATIONS

The following overview is provided to assist in focus of effort on the most likely challenges to be confronted in the week ahead.

Legal issues of which the commissioners should be aware.

- Governor consent ICW Air NG recommendations.
- Retirement of aircraft ICW Air NG recommendations.
- Legality of Commission acting on leased space recommendations.
- Legality of Commission considering Cecil Field as an alternative to NAS Oceana.

As has been discussed at length, both the governor consent and retirement of aircraft issues could be bases for successful legal challenge of the BRAC process.

I do not believe the other two issues in any way inhibit the Commission in its deliberations and voting on leased space properties or NAS Oceana. Furthermore, I believe that the Commission can appropriately consider Cecil Field to be a receiving site if NAS Oceana is closed.

The first two issues can be mitigated and largely resolved by including language in the Air NG recommendations that require State approval and by deleting reference from those recommendations all mention of retiring aircraft. However, if neither approach is considered desirable, the Air NG recommendations can be evaluated without regard to them. They can all be approved, all voted down, or altered in one way or another. As with other recommendations, a sense of the Commission as to possible resolutions of the Air NG recommendations will develop in the days ahead.

The breakdown of recommendations is as follows:

- Adds – 8 installations to be considered.

- Army -- 10 recommendations involving major installations, 46 involving Reserve Component installations.

- Navy -- 16 recommendations involving major installations, 5 involving Reserve Centers and Recruiting.

- Air Force -- By rough count 30 recommendations involve movement of Air NG aircraft; 12 other recommendations involve other (some major) installations.

- Joint Cross Service Group – 71 recommendations
  - Education and Training -- 9 recommendations
  - Headquarters and Support Activities -- 21 recommendations, including leased spaces and numerous multiple recommendations
  - Industrial -- 17 recommendations
  - Intelligence -- 2 recommendations
  - Medical -- 6 recommendations
  - Supply and Storage -- 3 recommendations
  - Technical --13 recommendations

At least 50 recommendations (Army and Naval Reserve) will be resolved in two or three votes. A significant number of the other recommendations will be approved with minimal discussion. By category, the Air NG recommendations are currently presenting the most vexing issues to staff. Once there is more clarity about viable courses of action, motions and alternative motions can be developed for them, and they will likely be deliberating and voted on expeditiously. Then the remaining recommendations will fall into two categories: 1) those likely to require lengthy discussion; and 2) those that can be voted on more quickly, but will still require considerable discussion.

Scripts and amendments/motions are being prepared for all possibilities which will be identified through interaction with the commissioners in the days ahead.

David C. Hague

Cirillo, Frank, CIV, WSO-BRAC

Subject: Meeting with R&A and GC Regarding Final Deliberation Process
Location: R&A Conference Room

Start: Thu 7/28/2005 2:00 PM
End: Thu 7/28/2005 3:00 PM

Recurrence: (none)

Meeting Status: Meeting organizer

Required Attendees: Cirillo, Frank, CIV, WSO-BRAC; Hague, David, CIV, WSO-BRAC; Cook, Robert, CIV, WSO-BRAC; Dinsick, Robert, CIV, WSO-BRAC; Cowhig, Dan, CIV, WSO-BRAC; Saxon, Ethan, CIV, WSO-BRAC; Oborn, Tyler, CIV, WSO-BRAC; Sillin, Nathaniel, CIV, WSO-BRAC; Napoli, Andrew, CIV, WSO-BRAC

This is the walk through Meeting to determine recommended form and format for Final Deliberations. One Hour Maximum:

Agenda:

- Discuss Commissioner Gehman idea (Frank) 5 min
- Review Commissioners Final Deliberation Smart Book (Frank,Tyler) 10 min
- Discuss Purpose and Intent of Final Deliberations (Frank/David) 5 min
- Discuss Legislative Model (David/ Dan) 15 min
- Review Interaction between and among recommendations (Frank) 5 min
- Discuss Order of Presentation (Bob/ Gary) 5 min
- Review Presentation Format and Concepts (Ethan / Bob / Gary) 10 min
- Discuss report (Andy) - 5 min
- Draft Schedule for FDs - Follow-on Action

✓ mark for recusals

✓ need training session

✓ relate to leg bill

✓ chance of unidentified monitors?

✓ consistency across teams

BRAC/GC/dch
May 11, 2005

MEMORANDUM FOR RECORD

Subj: DEFINITION OF SUBSTANTIAL DEVIATION

1. The Defense Base Closure and Realignment Act of 1990 as amended provides in Section 2903d(2)(B):

> ". . . in making its recommendations, the Commission may make changes in any of the recommendations made by the Secretary [of Defense] if the Commission determines that the Secretary **deviated substantially** from the force-structure plan and final criteria . . . in making recommendations."

2. The following definition of substantial deviation was developed by the Review and Analysis staff and General Counsel of past BRACs and will be useful to the commissioners and others charged with determining when the Secretary substantially deviated from the force-structure plan and final criteria in making his recommendations.

The Secretary deviated substantially from the force-structure plan and final criteria in making his recommendations when:

> Data used for evaluating specific installations against the force-structure plan or one or more of the final selection criteria are so inaccurate that application of valid data causes a change in an installation's status.
>
> Methodology is so flawed, or was applied so inconsistently, that the force-structure plan or one or more of the final selection criteria were effectively not considered and correcting the flawed methodology or applying the methodology consistently causes a change in an installation's status.

DAVID C. HAGUE
General Counsel

Hague, David, CIV, WSO-BRAC

To: Angulo, Magda, CIV, WSO-BRAC
Subject: LEGAL SUPPORT

Magda --

The Commission found itself during mid-summer in need of immediate, specialized legal advice. With litigation threatened and conclusion of the BRAC process rapidly approaching, time was of the essence. The Executive Director contacted the Washington, DC law firm of Wiley, Rein & Fielding and arranged with Mr. Fielding for his firm to prepare a memorandum of law on complicated and contentious legal issues before the Commission. Outside, independent, and highly-regarded legal advice was essential for the completion of a major portion of the BRAC Commission mission, namely, formulation of recommendations pertaining to nearly 40 Air National Guard closures and realignments recommended by the Secretary of Defense. Few, if any other firms, would have had the talent and other resources to effectively respond to the tasking.

The requested memorandum of law was provided in remarkably short time and proved to be of significant value to the Commission, the Department of Justice, and various Federal District Courts and Circuit Courts of Appeal. Issues addressed in the memorandum were ultimately decided by the U.S. Supreme Court. The memorandum will be of continuing utility and value if the States that objected to Department of Defense and BRAC Commission actions that affected their Air National Guard units return to Federal District Court to litigate the merits of their claims.

Anticipating the need for such assistance, the BRAC statute specifically authorizes the Commission to procure services of experts and consultants (Section 2902(j), Defense Base Closure and Realignment Act of 1990, as amended).

David Hague
General Counsel

July 26, 2005

MEMORANDUM FOR CHAIRMAN AND COMMISSIONERS
DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

From: GENERAL COUNSEL

Subj: WEIGHING EVIDENCE IN PREPARATION FOR FINAL DELIBERATIONS OF THE 2005 DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

This memorandum provides guidance on weighing the various types of evidence that are available to the 2005 Defense Base Closure and Realignment Commission (Commission). It suggests an approach that is consistent with past practice, but does not purport to be binding instructions to the Commissioners.

The importance Congress attaches to the free flow of information is revealed by the application in the Defense Base Closure and Realignment Act of 1990, as amended, (BRAC statute) of the Military Whistleblowers Act with respect to communications with the Commission. The act prohibits any person from restricting a member of the armed forces from communicating with the Commission. An additional consideration with regard to communica-tions with members of the armed forces is that they are required under the Uniform Code of Military Justice to be truthful when making official statements in the line of duty, which includes communications with the Commission.

In light of the upcoming final deliberations to be undertaken by the Commissioners in making recommendations to the President, a review of the types of evidence provided to the Commission, and the weight they should be accorded are discussed below. The following categories of evidentiary submissions (both testimonial and documentary) will be considered:

A) certified data submitted by the Department of Defense (DoD),
B) sworn testimony and documentary submissions at hearings before the Commission,
C) communications from federal, state, and municipal officials,
D) communications from the general public, both individuals and organizations, and
E) personal knowledge and observations.

CATEGORY A: CERTIFIED DATA PROVIDED BY THE DOD

Section 2903(c)(5)(A) of the BRAC statute provides that each person:

> when submitting information to the Secretary of Defense or the [BRAC] Commission concerning the closure or realignment of a military installation, shall certify that such information is accurate and complete to the best of that **persons** knowledge and belief. [Certify means to confirm formally as true or accurate; an oath serves that purpose with testimony.]

Persons include: (i) the Secretaries of the military departments; (ii) the heads of the defense agencies; and (iii) each person who is in a position whose duties include personal and substantial involvement in the preparation and submission of information and recommendations concerning the closure or realignment of military installations . . .." (See Section 2903(c)(5)(B)) of the BRAC statute.)

Accordingly, DoD personnel have provided certified data to the Secretary of Defense in support of making recommendations for closures and realignments. Based on this certified data, the Secretary has made his final recommendations to the Commission. Moreover, pursuant to Section 2912(b) of the BRAC statute, the Secretary has also certified that there is a need for the closure and realignment of military installations, and has additionally certified that such closures and realignments will result in annual net savings for each of the military departments beginning no later than fiscal year 2011.

DoD personnel (in the categories described above), when responding to questions submitted by Commission personnel to the DoD clearinghouse have a duty to provide the Commission with certified data. All data received from the clearinghouse is considered to be certified.

CATEGORY B: SWORN TESTIMONY AND DOCUMENTARY SUBMISSIONS AT HEARINGS BEFORE THE COMMISSION

Section 2903 (d)(1) of the BRAC statute provides that after receiving the Secretary's recommendations for closures and realignments of military installations, the Commission shall hold public hearings. Further, this statutory provision directs that "[a]ll testimony before the Commission at a public hearing . . . shall be presented under oath."

The oath administered to witnesses testifying before the Commission states as follows:

> Do you swear or affirm that the testimony you are about to give, and any evidence that you may provide, are complete and accurate to the best of your knowledge and belief, so help you God?

This language parallels the certification requirement set forth in Section 2903 of the BRAC statute. Moreover, the oath covers not only the sworn testimony of the witnesses appearing before the Commission but also the documentary evidence (e.g., PowerPoint presentations, hand-outs, memoranda) that is submitted to the Commission by a witness during the course of a hearing.

In weighing the credibility of the witnesses, each Commissioner must individually determine for him or herself the believability of each witness. In evaluating this matter, each Commissioner must consider each witness's sincerity, truthfulness, persuasiveness, knowledgeableness on the subject-matter presented, and whether the witness is supported or contradicted by other evidence. The possibility of bias in terms of how the witness may be impacted by the decision-making of the Commission may also (but not necessarily) factor into the process of according the appropriate weight to such a witness's testimony and any documentary evidence he/she may provide. In making this determination, it is important to remain as objective and impartial as

possible, realizing that each Commissioner is also moved by his or her own life and professional experiences, biases, and judgments.

CATEGORY C: COMMUNICATIONS FROM FEDERAL, STATE, AND MUNICIPAL OFFICIALS

The Commission has been in frequent contact with numerous elected and appointed federal, state, and municipal officials. Where such officials have been corresponding or otherwise communicating in person or by telephone without formally testifying before the Commission, such communications should also be given appropriate weight. Commissioners have come into contact with many such officials during the course of hearings, base site visits, meetings, receptions, and other events.

Since the nature of these communications are not sworn to or otherwise certified as truthful and accurate, less weight needs be accorded to them. Nevertheless, there may be circumstances in which a particular Commissioner may feel that a certain unsworn, non-certified communication is particularly influential or persuasive. This is again a matter of weighing the credibility and believability of such a person, and the context of that communication which necessarily includes the nature of the Commissioner's relationship with that person.

CATEGORY D: COMMUNICATIONS FROM THE GENERAL PUBLIC

The Commission has received thousands of pieces of correspondence from individuals, civic and community organizations, veterans groups, schools, and numerous other organizations. These communications are not sworn or certified. However, the same caveat mentioned above applies here where an individual Commissioner may feel that a certain public submission has great persuasive value. This is a judgment call, and each Commissioner has been vested with the public trust and authority to make such a determination.

CATEGORY E: PERSONAL KNOWLEDGE AND OBSERVATIONS

Commissioners and staff members are chosen for their experience and expertise and are expected to use their knowledge and special insights in evaluating information received from all sources. They acquire important information first-hand through site visits, which provide opportunities to speak with a wide variety of people and see the condition of infrastructure, extent of encroachment, and other conditions and circumstances relevant to proposed BRAC actions. They also properly receive relevant and material information from the popular press, television, and other news sources. The significance and value of such information are once again determinations to be made by individual Commissioners.

DAVID C. HAGUE

DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION
2521 South Clark Street, Suite 600
Arlington, VA 22202
Telephone: 703-699-2950

Date: June 22, 2005

To: Commissioners, Defense Base Closure and Realignment Commission

From: Chairman Anthony J. Principi

RE: Commission Prodecures and Schedule

As we approach the voting phase of the Base Closure and Realignment process I have found it useful to review our current situation regarding recusals and voting requirements. A discussion of the results of my review follows.

Matters as they now stand are that four commissioners have recused themselves from participation in matters relating to installations in their home states. Commissioners Coyle and Gehman recused themselves, in accordance with ethics agreements they signed during the nomination process, because of BRAC-related activity in California and Virginia respectively. Commissioner Bilbray recused himself because of his long-time representation of Nevada in the Congress and other public offices. Commissioner Hansen recused himself with regard to Utah for the same reason.

Each of the commissioners made his recusal publicly at a Commission hearing held on May 19, 2005. As a result of these recusals, the commissioners cannot deliberate or vote on matters relating to installations in their home states or to installations in other states that are substantially affected by closures and realignments or installations in their home states. To avoid controversy and possible litigation "substantially affected" will be interpreted very conservatively.

The procedural rules adopted by the Commission at an open hearing on May 19, 2005, are, with one significant exception, the same as the rules that guided the previous three BRAC Commissions. Unlike in the past, however, a super majority of seven of nine commissioners is now required to add, realign, or increase the realignment of a base not included on the Secretary of Defense's list of bases to be closed or realigned.

With the exception of the seven-of-nine vote requirement, no guidance is provided in the BRAC statute for voting, such as what constitutes a quorum and majority. The Commission rules describe three situations in which **a majority of the commissioners serving** is required to conduct business. Only issues such as motions to extend meetings and adjourn are resolved by a simple **majority of commissioners present**. A majority of commissioners serving is therefore always five unless by resignation or other loss without replacement the total number of commissioners serving is reduced below nine.

The majority of the votes anticipated during Commission hearings to consider additions to the Secretary's list and conduct final deliberations will not be affected by recusals. All commissioners will be qualified to deliberate and vote.

Only one Commissioner will be recused from most of the remaining votes. In only a very limited number of actions will two or three Commissioners be disqualified from deliberating and voting.

In a related matter, I have determined as a matter of policy that we will make the greatest reasonable effort to minimize the number of conflicts but permit recused Commissioners as necessary to participate in regional hearings. Participation will be allowed even though the recused Commissioners will be unable to deliberate and vote on all of the installations discussed at the hearings and site visits. Their direct exposure to as much information and as many concerned citizens as possible is recognized as being vitally important to the completion of the Commission task of open, fair, and comprehensive consideration of the final selection criteria, force-structure plan, and worldwide infrastructure inventory. Other Commissioners and staff at the hearings and site visits will also gather data, so there is no real possibility that the recused Commissioner could be seen as filtering the Commission's view of an installation.

I know that we are of like mind that the Commission and its individual members must be above reproach and free from any real or perceived bias. The actions of Commissioners Bilbray, Coyle, Gehman, and Hansen in limiting their participation in certain Commission actions reflect the importance they place on their personal integrity and the public trust. Their actions can only serve to enhance the reality and perception of the Commission as independent, open, and honest.

I know that you share my enthusiasm for this undertaking, but I also am confident that we all look forward to the successful completion of our work. We have conducted more than half of our initial site visits and public hearings, but two full months of focused effort remain. Hearings to receive testimony from the Department of Defense, Government Accountability Office, and others are scheduled for July 18 and 19. We will conduct our "adds" hearing on July 19. We will receive Congressional testimony on July 28 and 29, and testimony from the Secretary of Defense and Chairman, Joint Chiefs of Staff during the week of August 15. Final deliberations commence the week of August 22. At this point, we remain on schedule to deliver the Commission report to the President on September 8. Thanks to you all for your remarkable service.

Procedural Rules of the
2005 Defense Base Closure and Realignment Commission

Rule 1. The Defense Base Closure and Realignment Commission ("Commission") was established by the Defense Base Closure and Realignment Act of 1990, Part A of Title XXIX of Public Law 101-510, as amended by Title XXX of the National Defense Authorization Act for Fiscal Year 2002, Public Law 107-107, and further amended by Section 2822, Subtitle C, Title XXVIII, Division B, of Public Law 108-136 ("Act"). The Commission's operations shall comply with that Act, as amended, and with these Procedural Rules.

Rule 2. The Commissions meetings, other than meetings in which classified information is to be discussed, shall be open to the public. In other respects, the Commission shall comply with the Federal Advisory Committee Act, Title 5, United States Code, Appendix 2, and the Federal Advisory Committee Management Final Rule, 41 Code of Federal Regulations Parts 101-6 and 102-3.

Rule 3. The Commission shall meet only during calendar years 2005 and 2006.

Rule 4. The Commission shall meet at the call of the Chairman or the request of a majority of the Commissioners serving at that time.

Rule 5. When the Commission meets to consider (a) the recommendations of the Secretary of Defense ("Secretary") submitted to the Commission in accordance with the Act, (b) the Commission's report to the President in accordance with the Act, or (c) a revised list of recommendations in accordance with the Act, a quorum shall consist of a majority of the members then serving. When the Commission meets to consider the closure of an installation not recommended by the Secretary for such action, or to consider the realignment of an installation that would result in a reduction in the force structure at that installation that was not recommended by the Secretary, a quorum shall consist of seven of the members then serving. When the Commission meets to conduct public hearings to receive public comment on the recommendations of the Secretary or the proceedings of the Commission, a quorum shall consist of one or more members designated by the Chairman.

Rule 6. When the Commission meets to consider (a) the recommendations of the Secretary submitted to the Commission in accordance with the Act, (b) the Commission's report to the President in accordance with the Act, or (c) a revised list of recommendations in accordance with the Act, and a quorum is present, a vote shall be required of the Commission to dispense with any of the above responsibilities or to ratify any acts of the Commission. The adoption of any action taken by the Commission with regard to (a) the recommendations of the Secretary submitted to the Commission in accordance with the Act, (b) the Commission's report to the President in accordance with the Act, or (c) a revised list of recommendations in accordance with the Act, will be by a majority of the members serving at that time. In the event of a tie vote on the adoption of any such action, the motion fails for lack of a majority. The adoption of any action taken by the Commission with regard to the closure of an installation not recommended by the Secretary for such action, or to consider the realignment of an installation that would

result in a reduction in the force structure at that installation that was not recommended by the Secretary, will be by seven of the members then serving. The resolution of all other issues arising in the normal course of Commission meetings or hearings shall be by a simple majority of Commissioners present. The Commissioners shall vote in person, except when a proxy is exercised under Rule 9.

Rule 7. The Chairman shall preside at meetings and public hearings of the Commission when he is present. In the Chairman's absence, he or she shall designate another member of the Commission to preside.

Rule 8. The Chairman, or in his absence, the presiding Commissioner, shall have the authority to ensure the orderly conduct of the Commission's business. This power includes, without limitation, recognizing members of the public to speak, imposing reasonable limitations on the length of time a speaker may hold the floor, determining the order in which members of the Commission may question witnesses, conducting votes of members of the Commission, and designating Commissioners for the conduct of public hearings.

Rule 9. One Commissioner may designate another Commissioner to vote and otherwise act for the first member when he or she will be absent, but only where the first Commissioner has previously issued a written proxy to the second stating the specific, limited purpose for which the proxy is to be exercised. Where the margin of decision would be supplied by a proxy vote, the proxy shall be considered invalid and the matter under consideration shall be considered to have failed.

Rule 10. These rules may be amended by a majority vote of the Commissioners serving at the time.

Rumu - pls compare
this with your draft rules?
and, work up intro language
for the Chairman for our
first session of fund
deliberations.

Thanks, David

P R O C E E D I N G S

CHAIRMAN COURTER: The Commission will come to order. If we can have order in the room, please. Thank you very much.

Good morning, ladies and gentlemen, and welcome to one of the most important meetings that the Base Closure and Realignment Commission will have. We're here today, as you know, to develop a menu of options, a list of possible alternatives to some of the military installations that the Secretary of Defense has recommended for closure.

I want to emphasize that we're not here today to produce a final list of closures and realignments. We will not take that definitive action until the latter part of next month, June. It will probably be the third week of June, perhaps the last week in June.

We're here today to make decisions about adding bases for further consideration, not because we have determined that we need to close more bases than the secretary has recommended, necessarily, but because we want to make sure he selected the right ones for closure and realignment.

I also want to make it clear that our job is not to upset and, in some cases, almost terrorize communities that may, in some cases, breathe a sigh of relief in March when they found out they were not on the Secretary's list of recommended realignments or closures. We are as a panel acutely aware of the pain and the dislocation that communities fear when they face the prospect of an important military base being closed or realigned in their neighborhood.

Our job as an independent Commission is to render a fair and informed judgement of the Secretary's recommendations. I don't think we can do that in some cases without making direct comparisons between bases that are on the Secretary's list and similar bases that are not found on the Secretary's list.

If, after full and open discussions today we add bases for further consideration, we will be fair to those additional installations, just as we have been fair to those that were on the Secretary's list. Simply put, an affirmative vote, which will require if there is no refusals, four commissioners voting in the affirmative to put a base on the review list does not necessarily mean they're going to be closed.

It means that for us to do an honest and independent job in analyzing that particular category, as did the Department of Defense, we have to look at a broader picture. We have to look at other installations, we feel, if there is an affirmative vote, other than those that were found on the Secretary's list March 15th.

At least one commissioner if, in fact, we vote affirmatively to add bases on our review list today, will visit any installation that we add for further consideration, if it falls in the category of being major. And representatives of that community, just like those that occurred during the past couple of months, will be given the opportunity to testify in their area of the country. And then their elected representatives in Washington, D.C., will be given the opportunity to testify later on this month with respect to those additional facilities here in Washington.

A schedule of those additional base visits, if we have affirmative votes today, and hearings will be announced within the next few days. After we complete a new round of base visits and hearings during the early days of June, we will have additional hearings in Washington, during which members of Congress and other important witnesses will be given a final opportunity to testify.

I have spoken to various commissioners individually, and they feel strongly that what we may want to do in some instances -- not all, but in some instances, and maybe all instances -- is to invite back the Department of Defense, the Secretary of Defense, Service Secretaries, and other personnel that came up with the original list that was published on March 15th.

We will then begin our final publications or public deliberations around the 17th or 18th of June and will vote on our final recommendations to the President, as I mentioned, late June -- we anticipate June 25th or 26th.

As we have been, I believe, throughout this entire process, we'll continue to be fair, open, and, of course, fiercely independent. Our job is to make sure that we make the best decisions for the interests of the country.

Finally, I want to say a word about how we proceed today, and I have a couple of technical housekeeping chores. I have asked Matt Behrmann, who is sitting in front of me, and our chief of staff, and Ben Bordon, who is, as well, in front of me, our director of review and analysis, to give us a short presentation, after which the leaders for the commission's three service teams and interagency team -- we have a team leader for the Air Force, the Army, and the Navy, and an interagency team.

And we'll have them be available to take us through the various options that they have prepared at our request, as well as any other options that any commissioner may raise during the day. I anticipate, obviously, a full and broad and vigorous discussion with regard to all these categories and all these bases.

I want to emphasize the fact that the process with respect to today's events started before today. And I just want to make sure that everybody understands what that process was. The commissioners, before they were sworn in as commissioners by the United States Senate, obviously disclosed their financial situations -- financial

disclosure statements.

When the Secretary's March 15th list came out, all the contracts that those installations had with private industry was compared with the financial disclosure statements to make sure that members of this Commission did not unwittingly, without knowing the conflict, vote on something in 2which there was a conflict.

And that was done, and one or two commissioners have recused themselves, either because they found out information they didn't know, or because they knew it, and they were going to recuse themselves anyway, because they felt that there was a perceived or real conflict of interest.

In order to make sure that today we didn't fall into that same trap or that same problem, I asked individual commissioners during the past 10 days that as they reviewed potential alternatives or adds to the Secretary's list, that they give the names of those facilities, those bases, to our chief counsel, Sheila Cheston, and that then there would be that same conflicts review, which would take place with respect to those potential additional facilities, as took place with respect to the March 15th list.

Our counsel, of course, gave then that proposed conflicts list to the Department of Defense's Standards of Official Conduct Office inside the Office of their General Counsel. The conflicts were looked at, and I think in all except for one category, no recusal was needed with regard to this large group that were on this conflicts list.

Today, then, all the discussions were on safe ground. All the discussions and all the votes will take place on bases in which conflicts were examined during the past 10 days. And I wanted to make sure everybody understood that, because as I and other commissioners met with members of Congress, as we're constantly doing -- it's part of the process, and we welcome that; we think it's very helpful -- there was some discussion about, "Am I on a list?"

Nobody is on a list until we affirmatively vote today by a majority of commissioners that are eligible to vote. That list was only a conflicts list to avoid unknown, unwitting conflicts of interests.

With regard to the procedure today, we'll hear first -- and I'm not going to recognize you yet, because there's another chore I want to take under consideration -- we'll hear from Ed Brown, the Army team leader, I guess, in about 10 minutes. Then we'll move to Alex Yellin after that. And then we're going to move to the Air Force after we finish with the Navy. And then we're going to go into the special team, and that is Bob Cook.

I don't really anticipate, unless we're terribly efficient, finishing today. All the commissioners have indicated to me that if we don't, we will reconvene at an agreeable time tomorrow, and this public hearing will be continued without the need of further publication in the Federal Register. Perhaps that was, in fact, already done. We'll certainly do our best, as always, to stay on schedule.

With regard to some of the additional housekeeping chores, our counsel has reviewed the bylaws that were adopted in 1991 and then readopted this year. She points out that there's two areas of clarification -- not substantive change, but clarification -- that would be best to review today and to clear up by way of an amendment or two amendments.

First of all, the rules that are published, and you can have a copy of them if you don't have them now, indicate that in order for a quorum to be present and for votes to take place with respect to closing a facility, there has to be a majority of commissioners. The first amendment says "the majority of eligible commissioners," because we may have one or more commissioners recuse themselves. And therefore, we wanted to make it abundantly clear that the Rules 5 and 6 focus on the need to have a majority of eligible commissioners.

The second is an amendment to Rule 6, which further makes clear that a majority vote is required to reject a recommendation of the Secretary of Defense or to add military installations to the Secretary's list or to add a major realignment. In other words, in the events -- and I want to make sure our rules make this abundantly clear -- in the event of a tie on these issues, the Secretary's recommendations will stand.

So those are the two technical amendments that I'm asking be offered today. And do I hear a motion on those amendments? And if seconded, we can have whatever discussion is necessary.

The gentleman is recognized.

COMMISSIONER STUART: To clarify the Commission's intent, I move that the first sentence of Rule 5 of the Procedural Rules of the Defense Base Closure and Realignment be amended to read: "A quorum shall consist of a majority of the eligible Commission members serving at that time."

CHAIRMAN COURTER: Do I hear a second to the motion?

COMMISSIONER BYRON: Mr. Secretary, I second.

CHAIRMAN COURTER: I hear a second.

Any discussion on that? I believe that all commissioners have the actual language with respect to this technical amendment. Is there any discussion on the motion which has been seconded?

(No response.)

Hearing no discussions, all in favor, say aye.

(Chorus of ayes.)

CHAIRMAN COURTER: Does anybody oppose this motion?

(No response.)

DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

OPEN MEETING

8:30 a.m.

Hart Senate Office Building
Room 216
Washington, D.C.

Friday, June 22, 1995

COMMISSIONERS PRESENT:

Alan Dixon

Alton W. Cornella

Rebecca G. Cox

J.B. Davis

S. Lee Kling

Benjamin Montoya

Wendi Louise Steele

Josue Robles

C O N T E N T S

	PAGE
Cross Service Team	10
Jim Owsley, Team Leader	
Ann Reese, DOD Analyst	
Brian Kerns, Analyst	
Glenn Knoepfle, GAO Analyst	
Les Farrington, GAO Analyst	
Dick Helmer, GAO Analyst	
Joe Varullo, Associate Analyst	
Air Force Team	339
Frank Cirillo, Team Leader	
Lieutenant Colonel Bob Bivins, DOD Analyst-COBRA	
Dave Henry, Economic Analyst	
Deirdre Hurre, Environmental Analyst	
Jon Flippen, FAA Analyst	
Marilyn Wasleski, GAO Analyst	
Ty Trippet, Associate Analyst	

MOTIONS: 32, 36, 48, 133, 139, 219, 231, 236, 238, 252, 258, 274, 289, 293, 299, 302, 306, 311, 314, 317, 319, 322, 325, 327, 330, 332, 336, 348, 355, 371, 389, 391, 393, 418, 420, 441, 443, 445, 449, 454, 457, 467, 470, 473, 478, 483, 486, 488

P R O C E E D I N G S

CHAIRMAN DIXON: Good morning, ladies and gentlemen, and welcome to the first day of the final deliberations of the 1995 Defense Base Closure and Realignment Commission.

My name is Alan Dixon, and I am chairman of the Commission. With me are my colleagues, Commissioners Al Cornella, Rebecca Cox, General J.B. Davis, S. Lee Kling, Admiral Benjamin Montoya, General Joe Robles, and Wendi Steele.

Today, we will begin to decide which military bases to recommend to the President for closure or realignment. It is a painful responsibility which none of us sought, but which we are determined to carry out in a deliberate way that will improve long-term military readiness and insure we are spending the American taxpayers' money in the most efficient way possible.

Yet, as unappealing as our task is, I can assure every American taxpayer that we are as well-prepared for it as any eight people could be. In the 16 weeks since we received the recommendations of the Secretary of Defense, commissioners and staff have made 205 visits to the 165

military installations and activities. We conducted 16 regional hearings around the country and in Guam. We held another 13 hearings in Washington and have had hundreds of meetings with community representatives and elected officials.

The commissioners have worked hard. The staff has worked hard. The process has been open at every point, and whatever the outcome of our votes, I am confident when I say I believe that every community on the list has been treated and will be judged fairly.

Before I describe how the final deliberations will be conducted, I wanted to offer my thanks on behalf of the other commissioners and our staff to all the military and civilian personnel who have cooperated with us completely and graciously during what is clearly a traumatic time for them. They show character beyond words and do their country proud.

Now, let me describe how these deliberations will proceed. When we finish our work today, we will resume work in this room at 8:30 tomorrow morning and Saturday morning. If we have not finished by Saturday, we will take off Sunday and return here Monday morning at 8:30 and for as many mornings as necessary.

We have deliberately left these work days open-ended and will know only late on each day what time we will stop work. For those reasons, it is impossible to predict in advance what time of what day a base will be considered.

We will begin in a few minutes with a presentation by our staff cross-service team. This presentation will include the installations in the following categories: Air Force laboratories and product centers; Air Force depots; Army depots; Navy depots/warfare centers; Navy technical centers; and the Dugway Proving Ground and a group of five miscellaneous Air Force installations.

As will be the case throughout the deliberations, our staff will present the commissioners with the results of its review and analysis of the data underlying the recommendations on the Secretary's list and regarding the bases the Commission added for consideration on May 10.

After the presentation on each installation, there will be as many questions and as much debate as the commissioners desire, and then it will be appropriate to entertain a motion for some kind of action. It is our intention to vote on each installation after its presentation. The final result on each base will be known at

Page 7

1 that time, notwithstanding the fact that we have until july 1
2 to deliver our formal report to the President.
3 After the cross-service team is finished, we will
4 move on to the Air Force, then the Navy, the Army, and
5 finally, the Defense Logistics Agency.
6 Now, let me take a minute to describe our voting
7 procedure, because it may be slightly confusing at times.
8 The base closure statute affords the recommendations for of
9 the Secretary of Defense a presumption of correctness. From
10 a practical standpoint, that means the Commission can
11 overturn or modify the Secretary's recommendation only by a
12 majority vote.
13 If a motion to reject or modify the Secretary's
14 recommendation ends in a tie, then the motion fails and the
15 Secretary's recommendation stands. In addition, in order to
16 overturn the Secretary's recommendation, the Commission must
17 make a specific finding that the recommendation has
18 substantially deviated from the force structure and base
19 closure criteria.
20 In the case of a motion to accept the Secretary's
21 recommendation, a tie vote is all that is needed to support
22 the Secretary. A majority vote is not necessary. The base

Page 8

1 closure statute does not give the same presumption to bases
2 added to the list by the Commission. These bases can be
3 closed or realigned only with a majority vote.
4 Further, there is no need to make a motion to keep
5 an added base open. We do not have to vote on all the bases
6 we added, and if we do not vote, that particular base will
7 remain open.
8 The Chair will try to make sure we all understand
9 these distinctions as we proceed with the voting.
10 Now, before I recognize the Commission staff
11 director, David Lyles, who will begin the presentations, I
12 would like to say a few words about the difficult task at
13 hand and how I approach it. I believe the elimination of
14 excess infrastructure in the Defense Department is critical
15 to the ability of the military services to maintain and
16 modernize their forces over the next decade.
17 All of us are aware of the pressures on the defense
18 budget. In the last 10 years, the defense budget has
19 declined almost 40 percent in real terms. For FY 1996, the
20 military budget for modernization and procurement of new
21 weapons is $39.4 billion -- down 71 percent since 1986, and
22 in real terms at its lowest level since 1950.

Page 9

1 Since 1986, we have reduced the size of the
2 military by 30 percent. If this Commission closes everything
3 the Department wants closed this year, we will have reduced
4 the infrastructure by just 21 percent in all four rounds of
5 base closure.
6 There are no bad bases left to vote on. All the
7 installations before us have made it through three rigorous
8 rounds of cuts. Nonetheless, throughout our four months of
9 visits, hearings and analysis, certain indisputable facts
10 emerge: First, DOD officials have testified that even after
11 this round is completed, there will still be significant
12 excess infrastructure in the Defense Department.
13 Second, DOD officials have also testified that the
14 services are counting on the savings from this round to
15 reverse the decline in their modernization funding. Third,
16 the overall defense budget is likely to decline over the next
17 few years. And fourth, this is the last round of closures
18 under the current, expedited procedure, and it is unclear
19 whether Congress will ever authorize another round.
20 Having said that, I believe it is critical that the
21 Commission achieve at the very minimum the level of savings
22 proposed in March by the Secretary of Defense. I would

Page 10

1 personally prefer to achieve greater savings.
2 As I have said earlier, the base closure law allows
3 the Commission to remove a base from the Secretary's list
4 only if it finds substantial deviation from the force
5 structure plan or the selection criteria. For my part, I
6 will apply a very rigid test to this question of substantial
7 deviation, because I believe that closing bases now is the
8 key to the continued readiness and future modernization of
9 our military forces.
10 Now, ladies and gentlemen, we're ready to begin.
11 And I would ask that all the staff members who may be
12 testifying today please stand, and I will administer the
13 oath.
14 [Staff sworn.]
15 CHAIRMAN DIXON: Director Lyles, you may begin,
16 sir. And thank you from this entire Commission for the
17 excellent work done by you and your staff.
18 MR. LYLES: Thank you, Mr. Chairman, and good
19 morning, Mr. Chairman and members of the Commission. Before
20 we turn to the Commission review and analysis staff to begin
21 a discussion of the closure and realignment recommendations,
22 I would like to take just a moment or two to make two points

Page 11

1 to set the stage for the Commission's discussions over the
2 next several days.
3 The first point involves the financial and
4 budgetary context of the Commission's deliberations. As you
5 can see from the first chart on the screen there, back on
6 March 1st, the Defense Department estimated that the base
7 closure and realignment recommendations they were forwarding
8 to the Commission had one-time, up-front costs of $3.74
9 billion, with annual savings of 1.77 billion once they were
10 implemented, and a 20-year savings of $21 billion.
11 Two things have happened since March 1st that have
12 changed or could change these cost and savings estimates.
13 The first is that the military services, principally the Army
14 and the Air Force, have gone out and done detailed site
15 surveys of the installations on their closure lists. As a
16 result of these site surveys, the services have revised the
17 one-time cost and annual savings projections on a number of
18 their recommendations.
19 The second line on this chart shows the cumulative
20 results of these revisions. Using the Defense Department's
21 own figures, the one-time cost to implement their March 1st
22 recommendations have now gone up by $337 million, or 9

Page 12

1 percent. Their annual savings have gone down by $146
2 million, or 8.3 percent. And the 20-year savings have gone
3 down by $1.9 billion, a little over 9 percent.
4 The second thing that has happened, Mr. Chairman,
5 is that the Secretary of Defense and the Secretary of the
6 Army have written, asking the Commission to remove several
7 installations from the March 1st list. These installations
8 are listed on the second chart and include Kirtland Air Force
9 Base in the Air Force, Dugway Proving Ground, and two smaller
10 installations in the Army.
11 If the Commission agrees with the Department's
12 recommendation to remove these installations from the list,
13 the financial result is shown on this slide. The one-time up
14 front cost to implement the closures and realignments
15 declined by 225 million, or 6 percent, from the March 1st
16 figure. The annual savings declined by 199 million, or 11
17 percent. And the 20-year savings declined by 2.1 billion, or
18 10 percent.
19 So, Mr. Chairman, the message here is that if the
20 Commission were just to accept the Defense Department's
21 recommendations as they stand now, using the Defense
22 Department's numbers, the annual savings would be 11 percent

Page 13

1 lower, and the 20-year savings would be 10 percent lower than
2 the Defense Department estimated when they sent the list to
3 the Commission on March the 1st.
4 The second area I would like to highlight briefly,
5 Mr. Chairman, is the Commission's approach to economic impact
6 and cumulative economic impact in our analysis of the Defense
7 Department recommendations over the past four months.
8 Economic impact is one of the eight selection criteria
9 considered by the Defense Department when they drew up their
10 closure recommendations.
11 In the presentations by the Commission's staff over
12 the next several days, you will see estimates for economic
13 impact and for cumulative economic impact for each
14 installation on the Secretary of Defense's list of
15 recommendations, as well as on the Commission's list of bases
16 added for consideration.
17 The economic impact of a proposed closure or
18 realignment of an installation is defined as "The direct and
19 indirect job loss resulting from a realignment or closure as
20 a percent of the employment base within its economic area."
21 The cumulative economic impact of a closure or
22 realignment is "The direct and indirect job loss as a percent

Page 14

1 of the employment base resulting from the proposed 1995
2 closure or realignment action, other proposed 1995 closure or
3 realignments across all the services within the same economic
4 area, and prior closure or realignment actions across all the
5 services within the same economic area."
6 Mr. Chairman and commissioners, I think our hearing
7 record demonstrated that the economic impact estimates
8 presented are just estimates and are considered by most
9 technicians to be worst-case estimates, and the actual
10 economic impacts of base closures may or may not reflect this
11 worst case.
12 I would also like to emphasize that the data and
13 the methods used to estimate economic impacts are well-
14 documented and are applied consistently across all the
15 installations in the Commission's review process. We have
16 had two senior economists on our staff helping us in this
17 area, Mr. Dave Henry from the Department of Commerce, and Mr.
18 Bob Wilson from FEMA.
19 Mr. Chairman, with these introductory remarks, I
20 think the staff is ready to proceed with the first category
21 of closure and realignment recommendations. Mr. Ben Borden,
22 our director of review and analysis, is on my right. And on

Page 15

1 my left is Mr. Jim Owsley, the team chief of the cross-
2 service team, who will begin the discussion and presentation.
3 MR. OWSLEY: Thank you. Good morning, Mr. Chairman
4 and commissioners. It's a pleasure to be here this morning
5 to present our analysis of the Secretary of Defense's
6 recommendations on product centers and laboratories,
7 logistics centers, depots, and air warfare centers.
8 Assisting me on the first portion of my testimony is Dick
9 Helmer; next to him is Les Farrington; and then last in line,
10 Frank Cantwell, all senior analysts for the Commission staff.
11 The cross-services presentation today will address
12 29 installations. The installations are divided into seven
13 categories that you see on the screens before you. Category
14 A is the Air Force product centers and laboratories; Category
15 B is the Air Force depots; Category C is the Army depots;
16 Category D is Navy depots and warfare centers; Categories E
17 through G includes 15 installations that span the Air Force,
18 Navy, and Army.
19 We would now like to get into the first of the
20 product centers. The next chart depicts the seven Air Force
21 product centers and laboratories. They are Hanscom Air Force
22 Base, Rome Laboratory, Wright-Patterson Air Force Base,

Page 16

1 Kirtland Air Force Base, and Brooks Air Force Base. The
2 three shaded installations are those that are recommended by
3 the Department of Defense for closure or realignment. We
4 have a map that shows the location of each of these
5 installations.
6 Our next chart begins with the first installation,
7 which is the Rome Laboratory, located at Griffiss Air Force
8 Base in New York. Rome Laboratory is the Air Force center of
9 excellence for command, control, communications, computers,
10 and intelligence, known as C4-I. And it is one of the Air
11 Force's tier I top laboratories.
12 According to the Chairman of the Joint Chiefs of
13 Staff -- and I quote -- "In each of the world wars of this
14 century, new technology debuted that revolutionized the way
15 we fought wars. The revolution occurring today is in C4-I."
16 Chart A-4 -- will you please put the chart back?
17 This chart shows the Secretary of Defense's recommendation
18 and the cost-savings personnel and the economic impact
19 involved.
20 The Secretary's recommendation is to close Rome
21 lab. Chart A-5 shows the DOD proposed relocation of Rome
22 Laboratory's activities and personnel positions to Hanscom

Page 17

1 Air Force Base and Fort Monmouth, New Jersey. Under this
2 plan, the lab site, a modelling and fabrication facility,
3 along with personnel, will remain at Griffiss Air Force Base.
4 The next chart shows the issues we have reviewed.
5 The DOD position is that its costs are fair and have a six-
6 year return on investment, while the community's position is
7 that it will take more than 100 years for the return on
8 investment. Our review and analysis show a 13-year return on
9 investment.
10 The second issue involves space. DOD's position is
11 that space is available for the renovation at Hanscom Air
12 Force Base without constructing new facilities. The
13 community's position is that renovated and new facilities
14 will be needed. The staff, because of a timing problem on
15 the facility to be modified at Hanscom, found that a new
16 facility or an investment in interim facilities will be
17 required.
18 DOD's position on Rome activity to be moved to Fort
19 Monmouth is that they will increase cross-servicing. The
20 community's position is that it breaks up teams of highly
21 committed individuals without standing C4-I expertise and
22 capabilities who are currently involved in DOD and

Page 18

1 interservicing projects. We believe that no increase in
2 cross-servicing is likely to occur from this relocation.
3 DOD's position is that some loss in Rome's
4 laboratory missions effectiveness will result, but they will
5 return at a later date. The community's position is that
6 most key personnel will not relocate and that the lab will
7 never be the same.
8 We believe there is a high probability that team
9 expertise would be seriously degraded by the closure and
10 relocation. Many personnel will not move and, as a result,
11 the gaining installations would have to hire new people who
12 will have to be trained.
13 The Air Force, the last issue is one involving re-
14 use. And the Air Force is no longer committed to the
15 community's re-use plan, because the law requires them to
16 look at bases that are open equally each time they start the
17 process. There's a 1993 letter to the then Commission from
18 the Deputy Assistant Secretary of the Air Force for
19 installations stating, "The Air Force has no plans to close
20 or relocate Rome Laboratory within the next five years."
21 The community believes this program promise limits
22 its redevelopment of Griffiss Air Force Base Rome Lab. The