

BRAC/GC/dch
3 May 2005

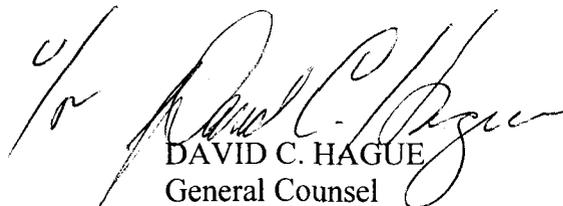
MEMORANDUM FOR THE CHAIRMAN

Via: Director of Staff

Subj: OATH FOR WITNESSES

Encl: (1) Defense Base Closure and Realignment Act of 1990, Sec. 2903(c)(3)(C)-(d)
(2) Proposed oath

1. The attached provisions of the BRAC 2005 enabling statute require that information provided to the Commission be certified as "accurate and complete to the best of [the providers] knowledge and belief." The provisions require further that, "After receiving recommendations from the Secretary . . . [a]ll testimony before the Commission at a public hearing . . . shall be presented under oath." (Enclosure (1))
2. The certification requirement applies to Secretaries of Military Departments, heads of Defense Agencies, and everyone "who is in a position the duties of which include personal and substantial involvement in the preparation and submission of information [to the Commission]." (Enclosure (1))
3. Even though the oath requirement is qualified by being required "After receiving recommendations from the Secretary," the certification and oath provisions when read together and in context suggest the wisdom of swearing in all witnesses whenever they testify before the Commission.
4. Enclosure (2) is an oath with prefatory language that will serve to assuage witnesses when they are asked to stand and be sworn, especially more senior witnesses accustomed to making presentations before commissions and committees without being sworn.


DAVID C. HAGUE
General Counsel

(C) For purposes of subparagraph (B), in the case of a community anticipating the economic effects of a closure or realignment of a military installation, advance conversion planning--

(i) shall include community adjustment and economic diversification planning undertaken by the community before an anticipated selection of a military installation in or near the community for closure or realignment; and

(ii) may include the development of contingency redevelopment plans, plans for economic development and diversification, and plans for the joint use (including civilian and military use, public and private use, civilian dual use, and civilian shared use) of the property or facilities of the installation after the anticipated closure or realignment.

(4) In addition to making all information used by the Secretary to prepare the recommendations under this subsection available to Congress (including any committee or member of Congress), the Secretary shall also make such information available to the Commission and the Comptroller General of the United States.

(5)(A) Each person referred to in subparagraph (B), when submitting information to the Secretary of Defense or the 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.

(B) Subparagraph (A) applies to the following persons:

(i) The Secretaries of the military departments.

(ii) The heads of the Defense Agencies.

(iii) Each person who is in a position the duties of which include personal and substantial involvement in the preparation and submission of information and recommendations concerning the closure or realignment of military installations, as designated in regulations which the Secretary of Defense shall prescribe, regulations which the Secretary of each military department shall prescribe for personnel within that military department, or regulations which the head of each Defense Agency shall prescribe for personnel within that Defense Agency.

(6) Any information provided to the Commission by a person described in paragraph (5)(B) shall also be submitted to the Senate and the House of Representatives to be made available to the Members of the House concerned in accordance with the rules of that House. The information shall be submitted to the Senate and House of Representatives within 24 hours after the submission of the information to the Commission.

(d) REVIEW AND RECOMMENDATIONS BY THE COMMISSION.--(1) After receiving the recommendations from the Secretary pursuant to subsection (c) for any year, the Commission shall conduct public hearings on the recommendations. All testimony before the Commission at a public hearing conducted under this paragraph shall be presented under oath. [*The preceding sentence shall apply with respect to all public hearings conducted by the Defense Base Closure and Realignment Commission after November 30, 1993.*]

(2)(A) The Commission shall, by no later than July 1 of each year in which the Secretary transmits recommendations to it pursuant to subsection (c), transmit to the President a report containing the Commission's findings and conclusions based on a review and analysis of the recommendations made by the Secretary, together with the Commission's recommendations for closures and realignments of military installations inside the United States.

(B) Subject to subparagraph (C), in making its recommendations, the Commission may make changes in any of the recommendations made by the Secretary if the Commission

**OATH FOR PERSONS PROVIDING TESTIMONY AT PUBLIC
HEARINGS CONDUCTED BY THE BASE REALIGNMENT AND
CLOSURE COMMISSION**

**THE ENABLING STATUTE FOR THE BASE REALIGNMENT AND
CLOSURE COMMISSION REQUIRES THAT ALL INFORMATION
RECEIVED BY THE COMMISSION BE CERTIFIED AS ACCURATE
AND COMPLETE AND THAT TESTIMONY BE PRESENTED UNDER
OATH.**

**ACCORDINGLY, WILL YOU PLEASE STAND AND RAISE YOUR
RIGHT HAND.**

**DO YOU SWEAR OR AFFIRM THAT THE TESTIMONY YOU ARE
ABOUT TO GIVE IS ACCURATE AND COMPLETE TO THE BEST OF
YOUR KNOWLEDGE AND BELIEF.**