DCN 585

9/91

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SEN. ARLEN SPECTER, et al.,	)	
Plaintiffs,	)	
v.	)	Civil Action No. 91-CV-4322
H. LAWRENCE GARRETT III, Secretary of the Navy, et al.,	)	
Defendants.	)	

APPENDIX TO DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

VOLUME I

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OFFICIAL TRANSCRIPT
BEFORE THE

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SENATOR ARLEN SPECTER, et al.,	
Plaintiffs,	CIVIL ACTION NO.
v.	91-CV-4322
H. LAWRENCE GARRETT, III, et al.,	Hon. Ronald J. Buckwalter
Defendants.	

Washington, D.C.
Friday, September 20, 1991

Deposition of MATTHEW P. BEHRMANN

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1 a break, stretch your legs or have a copy of coffee, let
2 me know that.
3 Where are you currently employed?
4 A. Defense Base Closure and Realignment
5 Commission, 1625 K Street, Northwest, Suite 400,
6 Washington, D.C.
7 Q. And for how long have you been employed there?
8 A. I don't know my starting date. Probably last
9 week in March of '91.
10 Q. And what position do you hold there?
11 A. Staff director.
12 Q. Can you tell me just a little bit about your
13 employment history directly before your affiliation with
14 the Defense Base Closure Commission?
15 A. Sure. I was a congressional intern on Capitol
16 Hill for Congressman Frank Wolf of Virginia. I then
17 went to work after four months with Mr. Wolf, went to
18 work for Congressman Joseph Dioguardi,
19 D-i-o-g-u-a-r-d-i, of New York for roughly two years as
20 a legislative assistant.
21 I was appointed by Mr. Dioguardi to the
22 Government Operations Committee in the House of

2

1 have one on the subject.

2 BY MR. DAVISH:

3 Q. Did you transmit any requests or direct

4 anybody to do tasks concerning naval documentation?

5 A. I was requested by Chairman Courter to set up

6 a meeting with senior level Navy officials, subsequent

7 to a May 17th GAO hearing, to pursue greater depth of

8 their documentation on their process, their internal

9 process and how it worked.

10 Q. And was it at that GAO hearing to your

11 knowledge that the GAO indicated that the Navy's

12 documentation was inadequate?

13 A. Yes, I believe so. I guess that's publicly

14 where they did it. Actually they had a report that they

15 delivered on May 15th which, just due to our schedule,

16 and I believe the days of the week, we had our hearing

17 with them on the 17th. What day it actually was -- by

18 statute delivered their report on the 15th.

19 Q. Was it your job to personally transmit or give

20 to the Commissioners specific documentation or

21 information that they had requested?

22 A. In some instances.

3

1 prior to the final deliberations on June 30th.

2 Q. Do you know if the Navy supplied documentation

3 to support its analysis after the May 17th GAO hearing?

4 A. Yes.

5 Q. And do you know how long that process of

6 supplying documents or information took?

7 A. I can't tell you exactly when it completely

8 ended because it was an evolving process and there was

9 many times that they would send us a body of information

10 and a piece of information and we would want it a little

11 bit different way or there would be further questions

12 relative to it. So it was a give-and-take process.

13 So I can't tell you exactly when it ended. As

14 far as I know, it could have been going up until the

15 very end because we were refining data to the very end

16 with the Commissioners.

17 Q. So the Navy might have supplied documentation

18 up until the last day or two before the Commission made

19 its final recommendations; is that right?

20 A. We continued to get information from all

21 sources, general public, members of Congress, Department

22 of Defense, Departments of Army, Navy and Air Force, up

4

1 until the 30th. As a matter of fact, it was my job to
2 ensure that there was members of the OSD and department
3 staffs available to answer questions on the final
4 weekend, so they were prepared to do that up until the
5 very end, and I believe the Air Force availed themselves
6 of asking some final questions. We met with members of
7 the general public on that Saturday.
8 Q. To your knowledge were members of the public
9 permitted to give counterinformation or rebuttal to the
10 documentation supplied by the Navy after the May 17 GAO
11 hearing?
12 A. I believe up until the final day, yes.
13 Q. And how exactly would the public make their
14 rebuttal or counterinformation statements?
15 A. There was various ways that was done. It was
16 done in some instances in informalized hearings. It was
17 done in other instances in face-to-face meetings with
18 Commissioners and Commission staff, not necessarily
19 together. Sometimes it was Commissioner supported by
20 staff. Other times it was just staff, through written
21 correspondence and through phone interviews or
22 conversations.

5

1 Q. Is it fair to say, though, that information
2 received from the Navy, the closer it came to the final
3 deliberations of the Commission, was subject to less
4 public scrutiny?
5 A. I can't comment on public vigilance, but we
6 made it completely clear to anyone who requested of us
7 at any time in the process, and this was by official
8 policy, that all of our records, regardless of when we
9 received them, that they were open and available for
10 scrutiny.
11 Q. So you said you might have still been
12 receiving information the weekend before the committee's
13 final recommendations, right?
14 MR. GUTMAN: Asked and answered.
15 BY MR. DAVISH:
16 Q. So are you telling me that the public would
17 have been available to, would have been able to respond
18 to that information that was made available to you
19 hypothetically on the weekend before the committee's
20 final vote?
21 A. Well, I don't believe it is hypothetical
22 because some parties did.

6

1 Q. I strike the hypothetical. Let me rephrase
2 the question.
3 A. Yes.
4 Q. That the public was able to respond to
5 information received at the weekend before the
6 Commission issued its report?
7 A. If they made a request of us and we were there
8 the entire weekend, that information was available for
9 their consumption.
10 Q. Were any such requests made to your knowledge?
11 A. I wouldn't be aware. That was a hectic
12 weekend for me and I wasn't in charge of requests to see
13 information.
14 Q. Who was in charge of that?
15 A. It depends where the request came from. If it
16 was a general public request, it would go to Mr. Walker
17 through his office and probably our FOIA, Freedom of
18 Information Act officer, Glen Flood would respond to
19 that. If it was a press inquiry, it would be handled by
20 Ms. McCarthy. If it was a congressional inquiry, it
21 would be handled by either Mr. Gallagher or Ms.
22 Petzinger. Mr. Gallagher is our House representative,

7

1 can.

2 THE WITNESS: I guess our fundamental concern

3 or the Commissioner's fundamental concern with the Navy

4 was a lack of knowledge as to how they translated their

5 raw data into final decisions, how their base structure

6 committee actually functioned. The Army had done a very

7 similar exercise and they had produced a crosswalk

8 between the parameters of their study and the parameters

9 of our study, our final selection criteria as applies to

10 military value.

11 We wanted to do a very similar exercise with

12 the Navy and find out how their raw data study computed

13 to their final decisions. And that staff meeting was

14 designed so that everybody would clearly understand how

15 we were going to go about doing that.

16 BY MR. DAVISH:

17 Q. So is it fair to say that you gave specific

18 instructions that such a crosswalk should be done for

19 the Navy?

20 A. It was kind of agreement between a number of

21 bodies. I think it was more a discussion than direction

22 from on high. It was kind of this is the best way to

8

1 proceed. We thought it was a reasonable approach.
2 I then went back to the Commissioners and I
3 said: I think that we have seen that the Army process
4 worked pretty well once we established its crosswalk,
5 and Chairman Courter said that was exactly what he had
6 had in mind and what he thought would be very
7 beneficial. And with that, we went ahead with the plan.
8 Q. And did the Navy, in fact, produce such a
9 crosswalk?
10 A. They did.
11 Q. Did you ever personally review it?
12 A. Yes, I guess I have read through it.
13 Q. Did you have any opinions or reach any
14 conclusions concerning the usefulness or validity of the
15 crosswalk?
16 MR. GUTMAN: Objection as to opinions, but if
17 you can answer, go ahead.
18 THE WITNESS: You know, I will have to say I
19 was impressed. I was pleased with the level of detail
20 we were able to secure. It gave us a pretty good
21 indication of how they had functioned. And it explained
22 any anomalies, which was our greatest concern, that any

9

1 time they deviated in any way from a normal course of
2 action on a plan, that it be explained and they did that
3 very well with their crosswalk.
4 BY MR. DAVISH:
5 Q. Was there any anomaly in particular that you
6 recall which needed explaining in the crosswalk?
7 A. No. The crosswalk was pretty
8 straightforward. There was some problems with the
9 translation of their raw data into final conclusions.
10 And as a result, a couple of the Navy's recommendations
11 were not implemented, where we found problems with the
12 raw data -- let me correct myself -- where the
13 Commissioners found problems with the raw data that was
14 presented to them and explanations thereof. They
15 reversed two of the Navy's decisions, in particular
16 naval air station at Whidby Island and Naval Training
17 Center, Orlando.
18 Q. There were GAO personnel tasked to the
19 Commission staff; is that correct?
20 A. That's correct.
21 Q. Do you recall how many at the height of
22 staffing?

1 A. There were four full-time representatives on
2 our staff. But there was a fifth gentlemen who helped
3 us in the latter part of May, maybe the beginning part
4 of June, relative to the Corps of Engineers issue.
5 The Commission kind of went back and forth as
6 to whether they were going to take that issue up. When
7 we finally got into a full-blown audit of it, GAO
8 supplemented the number of people who could help us on
9 that. And this gentleman was very knowledgeable, and
10 his name escapes me, but there was four full time.
11 Q. Do you know their names, the four full time?
12 A. Yes, I do. Mr. Vic Zangla was the senior
13 representative from GAO. Marv Casterline was the GAO
14 representative on the Navy team. Jake Sprouse, Jacob
15 Sprouse was the GAO representative on the Air Force
16 team. And Roddell Anderson was the representative on
17 the Army team.
18 Q. Did GAO pay them, do you know?
19 A. Yes.
20 Q. And the fifth GAO person?
21 A. I don't recall his name. That's the gentleman
22 I referred to that was involved with the Corps of

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CIVIL ACTION NO.

91-CV-4322

Hon. Ronald J. Buckwalter

Washington, D.C.
Friday, September 13, 1991

Deposition of ADMIRAL JOHN S. CLAMAN, USN

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12

1 presently hold, of Deputy Commander?

2 A. An approximate -- when I became the Deputy

3 Commander, I believe Admiral Hekman had been at his

4 position for a couple of years.

5 Q. Now, do you recall that during the deliberations

6 of the Navy Base Structure Committee that you and Admiral

7 Hekman appeared before that Committee and made various

8 oral presentations?

9 A. Yes.

10 Q. During what period of time was that,

11 approximately?

12 A. I appeared at the middle of February, twice. I

13 do not recall when Admiral Hekman appeared, but he did

14 appear.

15 Q. Did you ever appear with Admiral Hekman before

16 the BSC?

17 A. I don't believe I did.

18 Q. Did anyone -- and I do mean anyone from the

19 Navy -- ever request of you that you not appear before the

20 Courter Commission during their public hearings?

21 A. Could you repeat that, please?

22 Q. Did anyone from the Navy ever request of you

1 that you not appear before the Courter Commission?

2 A. No.

3 Q. In any of its public hearings?

4 A. No.

5 Q. Did anyone from the Navy ever direct you or

6 order you not to appear before the Courter Commission in

7 any of its public hearings?

8 A. No.

9 Q. And you know what I'm referring to when I say

10 the Courter Commission?

11 A. Yes.

12 Q. To your knowledge, did anyone from the Navy ever

13 request of Admiral Hekman that he not appear before the

14 Courter Commission in any of its public hearings?

15 A. I have no knowledge or no comment on that.

16 Q. One way or the other?

17 A. One way or the other, I just don't know.

18 Q. To your knowledge, did anyone from the Navy ever

19 direct or order Admiral Hekman not to appear before the

20 Courter Commission in any of its public hearings?

21 A. I don't know. I don't have any knowledge of

22 that.

1 this information flows as a matter of course -- but did
2 anyone from NAVSEA, to your knowledge, ask anyone at the
3 Philadelphia Naval Shipyard to provide information
4 specifically for the deliberations of the Base Structure
5 Committee?
6 A. I imagine they did. But I don't know exactly
7 what it may have been. It may have been information to
8 support closure costs. But I don't know the specifics.
9 Q. You say you imagined they did. Is that because
10 you have some recollection of general requests having been
11 made, or is that because you're just speculating?
12 A. Just general requests having been made. But I
13 don't know the specifics.
14 Q. What general requests?
15 A. I must say I don't know the specifics.
16 Q. You just know some requests were made?
17 A. I know that there was information flow. But I'm
18 not privy to the details.
19 Q. Okay.
20 Did any member of the Base Structure Committee
21 or its staff ever ask you for your opinion as to whether
22 the six nuclear-capable yards of the Navy should be

1 excluded from the deliberations of the Base Structure
2 Committee?
3 A. It was discussed at the Base Structure Committee
4 Session that I was at.
5 Q. In mid-February?
6 A. Yes.
7 Q. But did anyone ask for your opinion? I
8 understand you said it was discussed. But did anyone ask
9 that -- say Admiral Claman, we want to know how you feel
10 about this subject?
11 A. Put that way, I was asked. But I was not asked
12 the specific question of six naval shipyards, nuclear
13 shipyards, whether we should keep them. I was asked what
14 do I think. And I told them.
15 Q. What did you tell them?
16 A. I told them they should be kept.
17 Q. Did you tell them why?
18 A. Yes.
19 Q. What did you tell them?
20 A. Based on the projected nuclear work requirements
21 through this decade, the existing six, public shipyards
22 that have nuclear capability are required to accomplish

1 that work.

2 Q. All right, is it fair to say, Admiral Claman,

3 that approximately 1/2 of the work performed in nuclear-

4 capable shipyards is on non-nuclear ships?

5 A. No.

6 Q. What are the true facts, to the best of your

7 knowledge?

8 A. It's greater than that. But I don't know the

9 exact number.

10 Q. Well, when you say greater than that, do you

11 mean that the percentage of work performed in nuclear-

12 capable shipyards is greater than 50 percent for non-

13 nuclear ships?

14 A. No.

15 Q. It's greater than 50 percent for nuclear ships?

16 A. Yes.

17 Q. Does NAVSEA maintain statistics on that subject?

18 A. Yes.

19 Q. And do you maintain them on a fiscal-year basis?

20 A. What we maintain is ship schedules. We don't

21 maintain statistics on what is the break-down on nuclear

22 work versus non-nuclear work. But it can be determined.

16 A

1 Q. Now, isn't it a fact that the Philadelphia Naval
2 Shipyard, among other shipyards, does handle large,
3 amphibious, and Aegis ships?
4 A. Yes.
5 Q. Did you inform the BSC that certain kinds of
6 work such as large, amphibious, and Aegis ships was, in
7 fact, increasing, and that was work that could be handled
8 by the Philadelphia Naval Shipyard?
9 A. No.
10 Q. To your knowledge, did anyone inform the BSC of
11 that fact?
12 A. No, not to my knowledge.
13 Q. On the same page, under the heading Results of
14 Capacity Analysis.
15 A. Yes.
16 Q. On the next-to-the-last paragraph on the page,
17 beginning Dock Utilization. Do you see that?
18 A. Right.
19 Q. The document states, "Dock utilization is a
20 matter of workload, not of efficiency. Drydocks seldom
21 are projected to operate at 100 percent of available
22 capacity, since this is a very high-risk posture. Navy

1 prudently reserves some capacity for emergent work,
2 including voyage repairs; Navy targets for 70-percent
3 utilization to allow response to fleet-emergent work." Do
4 you see that?
5 A. Yes.
6 Q. Is that a true statement?
7 A. Yes.
8 Q. Was that information communicated by you to the
9 BSC during its deliberations?
10 A. Yes.
11 Q. Would you turn the page, to the one with the
12 Bates No. 595, please?
13 A. Yes.
14 Q. Under the heading, Capacity Analysis, do you see
15 that?
16 A. Yes.
17 Q. You have a chart entitled Naval Shipyard
18 Drydocks, Percentage Utilization by Shipyard Mission
19 Category. Do you see that?
20 A. Yes.
21 Q. Now were these figures intended to cover all
22 eight naval shipyards and the drydocks established

1 therein?

2 A. Yes.

3 Q. So that looking at line two of the table, Large

4 CV/CVN-Capable, do you see that?

5 A. Yes.

6 Q. CV refers to a carrier, is that correct?

7 A. Yes.

8 Q. A non-nuclear carrier?

9 A. Right.

10 Q. And CVN refers to a nuclear carrier?

11 A. Right.

12 Q. So that particular line was intended to show the

13 percentage utilization for all eight naval shipyards for

14 their drydocks for large, non-nuclear, and nuclear

15 carriers, correct?

16 A. Right.

17 Q. And if you look at the years from fiscal year

18 1990 through fiscal year 1999, the lowest utilization is

19 80.2 percent in fiscal year 1998; and the highest is 112.3

20 in fiscal year 1990, correct?

21 A. Correct.

22 Q. All of them are above 70, correct?

1 A. Yes.

2 Q. Did you provide the information contained in

3 this particular chart to the BSC during its deliberations?

4 A. In the form, somewhat different form than a

5 chart.

6 Q. A view graph?

7 A. A view graph which showed a line that had

8 the -- which had the available dock days, and then a bar

9 that showed how much above or below the available dock

10 days there was. So that the information in this chart,

11 here, was taken from those view graphs, to the best of my

12 knowledge.

13 Q. In determining drydock capacity, isn't it

14 correct that you assume 304 man days of drydock usage per

15 year?

16 A. I don't have the exact number, but you assume a

17 certain amount of time is set aside for maintenance of the

18 dock. And the setting up of the blocks, when you change-

19 out to another ship coming in.

20 Q. And isn't it a fact that the number you

21 assume --

22 A. I do not know.

1 the one in Norfolk?

2 A. It's lower. I don't know how much lower right

3 now.

4 Q. Well, would you say it was something between 50

5 and 100 dollars lower?

6 A. In that ballpark.

7 Q. Now, when you made your presentation to the BSC,

8 did you describe to the BSC what you have just described

9 to me about the stabilized man-day rates, and the effect

10 on the man-day rates of having a stable workload, or not

11 having a stable workload, and the resulting impact on

12 operating results because of that?

13 A. No.

14 Q. To your knowledge, did anyone inform the BSC of

15 that information?

16 A. No, but the inventor of the stabilized man-day

17 rate, or a person who is very knowledgeable of it was a

18 member of the BSC.

19 Q. Who is that?

20 A. Mr. Nemfakos. He many not have been the

21 inventor, but he is very knowledgeable of the stabilized

22 man-day rate.

21

1 A. Right.

2 Q. Option two, is to commence realignment of the

3 Philadelphia Naval Shipyard in fiscal year 1993, and

4 complete down-sizing to approximately 1,200 people in

5 fiscal year 1995, while retaining the propeller facility,

6 the NISMF facility, and the NAVSEES station. Is that

7 correct?

8 A. Yes.

9 Q. Now, it was your recommendation in Claman No. 1,

10 that option two be approved, correct?

11 A. Right.

12 Q. Why did you make that recommendation?

13 A. The recommendation was made on the basis of the

14 projected workload for the shipyard, which we had at

15 NAVSEA. That showed the workload gradually tailing off.

16 And in 1995, dropping down. The assumption in that

17 workload was that the Kennedy would be worked at the

18 Philadelphia Naval Shipyard.

19 Q. All right.

20 Now, you made this recommendation to Admiral

21 Lang, correct?

22 A. Correct.

22

1 Q. Do you know what happened to the recommendation
2 after it was received by Admiral Lang?
3 A. No.
4 Q. Well, do you know whether it was ever submitted
5 to the BSC?
6 A. I had submitted it to the BSC in a previous
7 presentation to them.
8 Q. Do you mean in mid-February, 1991?
9 A. Right.
10 Q. And had someone asked you to submit your
11 documentation to support your recommendation?
12 A. The working group that was part of the support
13 for the Base Structure Committee needed to have
14 documentation for both NAVSEA options.
15 Q. You just referred to a working group?
16 A. Yes.
17 Q. Who was on this working group?
18 A. I only know of a few members -- Captain
19 Drennon -- or Admiral Drennon had some people that worked
20 for him, that were in charge of this working group;
21 Admiral Lang had some people working for him that were on
22 the working group.

1 Q. Anyone else you can recall?

2 A. No.

3 Q. Did you make any presentations to the Advisory

4 Committee?

5 A. Once I made a presentation.

6 Q. When do you recall doing that?

7 A. I believe it was around the 20th of December or

8 thereabouts.

9 Q. And just what was the relationship between the

10 Advisory Committee and the BSC?

11 A. None, that I know of.

12 Q. Well, what did the advisory committee do with

13 its information that it had gathered, to your knowledge?

14 A. To my knowledged it was briefed to VCNO. I

15 think the final briefing was given to someone.

16 Q. Do you believe to Admiral Kelso?

17 A. I believe it was. But I'm not positive. All I

18 know is that a briefing was given somewhere.

19 Q. Did the Advisory Committee have anything to do

20 with the preparation of the VCNO study, which is also

21 known as the OPNAV study?

22 A. It could have been. I don't know those terms.

1 A. Yes.

2 Q. And in particular, the page with the Bates No.

3 602.

4 A. Yes.

5 Q. In the third paragraph under the heading,

6 Strategic and Operational Consequences, is the statement

7 that "the closure" -- referring to the closure of the

8 Philadelphia Naval Shipyard -- "departs from a long-

9 standing Navy strategic and operational requirement which

10 provided for two naval shipyards on each coast, capable of

11 docking and repairing aircraft carriers."

12 Do you see that?

13 A. Yes.

14 Q. Is that a true statement?

15 A. Yes.

16 Q. Was that information communicated by you to the

17 BSC?

18 A. Yes.

19 MR. PITTINSKY: Would the reporter please mark

20 as Claman Exhibit No. 7 for identification, a memorandum

21 dated February 4, 1991, from Admiral Claman to the Office

22 of the Comptroller of the Navy, via the Deputy Chief of

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et al.,	
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Washington, D.C.
Tuesday, September 10, 1991

Deposition of CAPTAIN ARTHUR D. CLARK, USN

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1 understand it, and that you're answering it to the best of
2 your knowledge.
3 If you need to get up and stretch your legs or
4 use the rest room or anything else, please let me know and
5 we can take a short break.
6 Do you understand all that?
7 A. I do.
8 Q. Could you briefly describe your educational and
9 professional background?
10 A. Briefly, I'm a graduate of the United States
11 Naval Academy. I have a Masters degree in Operations
12 Research from the post-graduate school at Monterey. I'm
13 an engineering duty officer in the Navy, having spent
14 12-1/2 years as a line officer first and then shifted
15 over.
16 I spent the last 10 to 15 years in and around
17 shipyards and shipyard business, having served at Pearl
18 Harbor Naval Shipyard and then at Charleston Naval
19 Shipyard as the production officer and now, of course, at
20 Philadelphia Naval Shipyard for a little over 3 years as
21 the shipyard commander.
22 Q. Exactly when did you assume your post as

1 A. Absolutely none.

2 Q. Did that surprise you?

3 A. Yes, it did.

4 Q. Did you ever talk to anyone officially or

5 unofficially about the fact that you had not been

6 consulted and that was a surprise to you?

7 A. Yes.

8 Q. To whom did you speak about that?

9 A. To the best of my recollection, I spoke to

10 Admiral Hines about it, Admiral Heckman about it, and

11 Admiral Claman about it, and a Mr. Bill Rizwyk, all

12 unofficial, informal, and not at any length.

13 Q. When, to the best of your recollection, did you

14 speak to Admiral Claman with regard to your not being

15 consulted?

16 A. It probably was when he first arrived in his

17 current job at Naval Sea Systems Command.

18 Q. And approximately when would that have been?

19 A. I don't recall. A year and a half, perhaps.

20 Q. So that would have been early 1990.

21 A. I think so, but I'm very unclear on that. I

22 can't remember when he took office.

1 THE WITNESS: I can't conclude anything along
2 those lines. I don't know what they considered. We
3 weren't part of the decision process. I don't know.
4 BY MR. DAVISH:
5 Q. But you would have expected that you would have
6 been part of the decision process?
7 MR. GARVEY: Objection. He has already
8 testified as to what his expectations were.
9 BY MR. DAVISH:
10 Q. It's fair to say then, you've never testified
11 before the Navy's Base Structure Committee at any point.
12 Is that correct?
13 A. That is correct.
14 Q. And you never testified before the President's
15 Commission on base closure and realignment?
16 A. We did have about a day with Mr. Jim Courter.
17 Q. The "we" being, in this case?
18 A. Myself and my staff.
19 Q. Approximately when did that occur?
20 A. I'm sorry, I don't recall. But it was during
21 that period of time when the Base Closure Commission was
22 visiting all of the sites that had been recommended for

29

1 closure.

2 Q. And how long did that meeting take?

3 A. Between ourselves and the naval base and naval

4 station, it was basically all day -- about 6 hours.

5 Q. And were you there, during that entire time?

6 A. Yes. I was.

7 Q. Was the meeting stenographically transcribed?

8 A. No. It was not.

9 Q. Did you take any notes on the meeting?

10 A. I did not.

11 Q. Do you recall, generally, what was discussed

12 concerning the closure of the shipyard, in particular?

13 A. I do.

14 Q. And could you describe that for me?

15 A. There was a presentation made by the local

16 community to Mr. Courter relative to the issues that they

17 felt surrounded base closure and their view of why the

18 Philadelphia Naval Shipyard should not be closed.

19 Q. And did you express an opinion on that subject,

20 or share any facts on that subject?

21 A. At the time of that presentation, I did -- or

22 was asked an opinion and I shared, with Mr. Courter, what

1 I thought was appropriate.

2 Q. And do you recall, in general terms, what that

3 was?

4 A. In general terms, it surrounded the issue of the

5 need for Philadelphia's drydocks.

6 Q. And what did you say on that subject?

7 A. I told Mr. Courter, if he couldn't find a use

8 for the drydocks, he should close the yard.

9 Q. And how did he reply?

10 A. He thanked me.

11 Q. Do you believe there is a need for the drydocks,

12 in your knowledge?

13 MR. GARVEY: Objection. Once again, it is an

14 opinion, but you may answer.

15 THE WITNESS: In my opinion, yes.

16 BY MR. DAVISH:

17 Q. And upon what is that opinion based?

18 A. Based upon the current, or at that time,

19 proposed size of the Navy of about 450 ships, with a

20 proposed building plan in the Navy's own maintenance

21 plant.

22 Q. Are you aware of whether the Base Structure

1 Well, excuse me. We work on all kinds of Navy surface
2 ships. We also work on Coast Guard ships, and have done
3 work on Army ships.
4 Q. Is there any kind of naval vessel, other than a
5 submarine, which you cannot do work on?
6 A. Well, clearly, at the moment, we do not do
7 nuclear work at the shipyard, and we do not do nuclear
8 ships in our shipyard.
9 Q. And why is that, to the best of your knowledge?
10 A. Because that work can be done elsewhere.
11 Q. Well, all work can be done elsewhere,
12 presumably.
13 Is there any particular reason that the
14 conventional work on nuclear ships is done at other
15 shipyards, as opposed to the Philadelphia Naval Shipyard,
16 to your knowledge?
17 A. I don't know.
18 Q. Can you tell me something about how the
19 Philadelphia Naval Shipyard is awarded its work on naval
20 vessels, through what process that occurs?
21 A. Well, some of it's assigned through the -- at
22 the time of the fleet scheduling conference annually, and

1 through the following year, to the next fleet scheduling
2 conference?
3 A. Or beyond.
4 Q. Was there any difference in the results,
5 regarding future work for the Philadelphia Naval Shipyard,
6 from the 1991 fleet scheduling conference, versus the 1990
7 fleet scheduling conference?
8 A. Yes, there were.
9 Q. Could you describe those differences?
10 A. Just briefly, some of the work we had in 1990
11 was taken out of 1991.
12 Q. Could you, to the best of your recollection,
13 tell me what work that was -- whether that is ship names
14 or anything else?
15 A. I believe there is an LHA. I would have to
16 refresh my memory on that.
17 Q. Could you tell me, approximately, what
18 percentage of the naval shipyard's work was taken out in
19 the fleet scheduling conference of 1991 which had already
20 been assigned in 1990?
21 A. No. I couldn't even guess. It was not a
22 terribly significant number.

1 an opinion, but you may answer.

2 THE WITNESS: Again, an opinion -- second-hand

3 information and I don't know from my own people -- I don't

4 know the accuracy of the information -- indicated that the

5 work had been taken out as a result of base closure.

6 Q. Could you describe, if you can, what impact that

7 will or may have in the next fiscal year or two fiscal

8 years?

9 A. Little to none, as I see it.

10 Q. Would it have a more significant impact in

11 fiscal years beyond the next two?

12 A. No, I don't think so.

13 Q. Has the Philadelphia Naval Shipyard bid for work

14 on any naval vessels this year, 1991?

15 A. Yes. We have.

16 Q. Do you recall what vessels the Philadelphia

17 Naval Shipyard bid on?

18 A. A question on my part. Could you be specific

19 about what hulls you are interested in?

20 Q. Well, is the total number of hulls we're talking

21 about extremely large?

22 A. It is not, but I can't remember which I did in

1 BY MR. DAVISH:

2 Q. My question is, do you have an opinion as to why

3 the Navy added costs, which you have described as

4 irrational and wrong, to the Philadelphia Naval Shipyard's

5 bid on the USS Clifton Sprague?

6 A. I do. I simply think they made a mistake.

7 Q. Do you think that that mistake, in your opinion,

8 had anything with the Navy's determination to close the

9 Philadelphia Naval Shipyard?

10 MR. GARVEY: Objection on grounds of relevancy

11 again. You may answer.

12 THE WITNESS: No. I don't think so.

13 BY MR. DAVISH:

14 Q. Why then don't you think -- pardon me. Strike

15 that.

16 Why do you think, in light of the fact that it

17 was just a mistake as you say, that the Navy did not

18 reverse its position with respect to adding costs onto

19 your bid for the Sprague?

20 A. Basically, the Navy does not agree with me.

21 Q. Is the Navy typically irrational and wrong?

22 MR. GARVEY: Objection.

1 Q. Would that have been in early 1991?

2 A. Probably.

3 Q. So prior to the Josephus Daniels in 1991, you

4 had encountered no conduct from the Navy, in regard to the

5 bidding process, that was out of the ordinary?

6 MR. GOULIAN: Excuse me. Were you referring to

7 the USS Peterson?

8 THE WITNESS: I'm sorry. The USS Peterson.

9 BY MR. DAVISH:

10 Q. The Josephus Daniels is not what you meant?

11 A. No. I withdrew my bid on the Daniels. I'm

12 sorry.

13 Q. All right. So let me phrase that question

14 again.

15 Then it is your testimony that prior to your

16 experience with the USS Peterson, which you say was

17 probably early 1991, you had encountered no circumstances

18 in the bidding process by the Navy which were out of the

19 ordinary or in any way objectionable to you or the

20 shipyard?

21 MR. GARVEY: Objection. You're suggesting that

22 the bidding process was out of the ordinary here. There

1 A. No, I can't remember all the details of it.

2 Q. Were you ever given the impression or the direct

3 suggestion by any person that it would be ill-advised for

4 you to express sentiments to other naval personnel or

5 people on the Base Structure Committee or the President's

6 Commission on Closure and Realignment?

7 MR. GARVEY: Objection. The witness has already

8 testified that no one specifically told him not to speak.

9 BY MR. DAVISH:

10 Q. It is your testimony that no one ever told you

11 not to speak, that is correct?

12 A. That is correct.

13 Q. Did you ever hold the opinion for one reason or

14 ill-advised or a poor idea for you to speak favorably

15 about the Philadelphia Naval Shipyard to any person?

16 MR. GARVEY: Objection, not relevant. It calls

17 for an opinion.

18 You may answer.

19 THE WITNESS: Would you repeat the question,

20 please?

21 BY MR. DAVISH:

22 Q. Did you ever form the impression or conceive the

1 belief that it would be ill-advised for you or a bad idea
2 for you to say anything favorable about the Philadelphia
3 Naval Shipyard to any person?
4 A. No.
5 Q. At the time of Mr. Courter's visit to the naval
6 shipyard, did you believe that there were positive things
7 you could have said favorable to keeping open the
8 Philadelphia Naval Shipyard, which for one reason or
9 another you did not say?
10 A. Not to my recollection.
11 Q. You are familiar with the term RIF, or R-I-F?
12 A. I am.
13 Q. Can you explain what that means?
14 A. It is a reduction in force. There are many
15 rules associated with it, but generally when we speak of
16 RIF we mean people would lose employment at the shipyard.
17 Q. And what process must be followed in order for
18 that result to be achieved, that people would lose their
19 employment at the shipyard?
20 A. I think you will have to be more specific.
21 Q. Who initiates a request of that sort?
22 A. I would initiate that.

1 Q. And on what grounds would you typically request
2 an RIF?
3 A. In the event that I simply could not get enough
4 work into the shipyard to keep all the people I had there
5 productively employed.
6 Q. Prior to this year, 1991, had you requested or
7 sought authorization for a reduction in force at any time
8 during your tenure as commander of the Philadelphia Naval
9 Shipyard?
10 A. Prior to 1991?
11 Q. Prior to 1991.
12 A. I don't think so.
13 Q. Did you request authority for a reduction in
14 force in 1991?
15 A. Yes, I did.
16 Q. When was that?
17 A. Several months ago.
18 Q. Is it fair to say that would have been July?
19 A. It could have been.
20 Q. Do you recall why at that time you sought a
21 reduction in force?
22 A. I do.

1 Philadelphia shipyard of the reassignment of the Kennedy
2 to a shipyard other than the Philadelphia shipyard?
3 A. A difficult question to answer. But without
4 compensating workload, we would close.
5 Q. Approximately when would you close without
6 compensating workload?
7 A. 1993.
8 Q. When in 1993?
9 A. Probably the latter part, possibly early 1994.
10 Q. Do you believe it is likely there will be
11 compensating workload?
12 A. I have no way of knowing.
13 Q. So you asked for authority for the reduction in
14 force, partly as a result of the possible reassignment of
15 the Kennedy to another naval shipyard, is that correct?
16 A. No, that is not correct. What I said was the
17 advanced planning had not been started, that it needed to
18 be started. And without the advanced planning there were
19 a number of engineers that I would have to let go until
20 such time as the funds were authorized to start the
21 planning.
22 Q. For a ship like the USS Kennedy and the work

1 involved on the USS Kennedy. Is it possible to say how
2 much time before the ship arrives it is necessary to start
3 work on the planning stage?
4 A. In general, 2 to 3 years.
5 Q. When was the USS Kennedy originally scheduled to
6 come into the naval shipyard?
7 A. Oh, years ago, in the SLEP program, surface life
8 extension program.
9 Q. But under that plan, when would the Kennedy
10 arrive at the Philadelphia shipyard actually for work to
11 physically to begin?
12 A. In 1993, the latter part.
13 Q. Do you know approximately how many persons would
14 be employed at that time when the Kennedy came in,
15 assuming it did come in, as a result of work on the
16 Kennedy?
17 A. Assuming a size work load of about 1.2 million
18 man-days for a 28-month duration or so, somewhere in the
19 neighborhood between 6,000 and 7,000 people in the
20 shipyard.
21 Q. And how long was the Kennedy work scheduled to
22 last at the shipyard?

1 A. I believe it's 28 months.

2 Q. So is it fair to say that where the Kennedy is

3 assigned is critical to whether or not the Philadelphia

4 Naval Shipyard survives past 1993?

5 MR. GARVEY: Objection. That calls for an

6 opinion.

7 But you may answer, if you know.

8 THE WITNESS: In my opinion, yes.

9 BY MR. DAVISH:

10 Q. So you asked for approval of a reduction in

11 force sometime in the last several months, that is

12 correct?

13 A. That is correct.

14 Q. Is it also correct that at some point you

15 reversed your position on that and sought to rescind that

16 authority?

17 A. Would you restate that question, please?

18 Q. Is it also true that at some point subsequent to

19 your seeking authority for a reduction in force you

20 changed your mind about whether you needed authority for a

21 reduction in force. Is that correct?

22 A. Yes.

1 MR. DAVISH: I would like to mark as Plaintiff's
2 Exhibit No. 3 the declaration of John S. Claman, C-l-a-m-
3 a-n, dated September 4, 1991, which was submitted to the
4 court in this lawsuit and has three attachments.
5 (The document referred to was
6 marked Plaintiff Exhibit No.
7 3 for identification.)
8 (Pause.)
9 BY MR. DAVISH:
10 Q. Have you read the declaration of John S. Claman,
11 which is part of Exhibit No. 3?
12 A. I have.
13 Q. Is there anything in that declaration with which
14 you do not agree?
15 (Pause.)
16 MR. GARVEY: Before you answer that question,
17 I'm going to object to your calling for any opinion that
18 you might disagree with. And you may limit your answer to
19 facts of what you think is correct or incorrect. To the
20 extent you have an opinion, you may state that. I would
21 object to it.
22 THE WITNESS: These appear to be correct.

1 response to my previous question?

2 A. Would you ask your question again?

3 MR. DAVISH: Could you read back the question

4 before the break?

5 THE REPORTER: "Question: Do you have any doubt

6 that anything there is incorrect?"

7 MR. GARVEY: I object to the form of the

8 question on the grounds that that is too vague and can't

9 be responded to appropriately. If you want to ask him a

10 precise question, frankly I thought you had.

11 MR. GOULIAN: He had already said that he didn't

12 see anything in there.

13 MR. GARVEY: I think it might be prudent to ask

14 the question again.

15 BY MR. DAVISH:

16 Q. Did you come in here intending to say something

17 in particular, Captain Clark?

18 A. No, I did not.

19 Q. Captain Clark, we have in front of us the

20 declaration of John S. Claman, Rear Admiral in the United

21 States Navy. And it incorporates various memoranda that

22 Admiral Claman says were received from you. Do you have

1 any problem with Admiral Claman's characterization of your
2 memoranda or that they were received -- pardon me, sent by
3 you?
4 A. I do not.
5 Q. Is there any other aspect of this declaration
6 with regard to your memoranda to Rear Admiral Claman that
7 you do not agree with?
8 MR. GARVEY: Objection. My objection is the
9 same as to the form of the question. If you have some
10 precise question --
11 MR. DAVISH: I think that is a precise question.
12 MR. GARVEY: It's a general question as to
13 whether he has any, as I understand it, disagreement with
14 what is stated in a declaration.
15 MR. DAVISH: I can take one sentence at a time
16 if that is what you would like. I would like to know
17 exactly whether the Captain is in agreement with
18 everything that is said here without any doubt. He has
19 expressed doubt. There was a long break with his counsel.
20 I think I have every right to examine exactly what his
21 problem is with the declaration of John S. Claman.
22 MR. GOULIAN: He hasn't expressed any problem

1 with it. He hasn't expressed any doubt with it. Go
2 ahead, take it one line at a time.
3 BY MR. DAVISH:
4 Q. Directing your attention to paragraph 2 of the
5 declaration of John S. Claman, first sentence.
6 Attachment 1 is a memorandum dated August 16, 1991 which I
7 received for the commander of the Philadelphia Naval
8 Shipyard withdrawing an earlier request for approval to
9 conduct a 2-stage reduction in force at the shipyard.
10 Do you agree completely with what that sentence
11 says?
12 A. I do.
13 Q. The letter states there is no longer a need to
14 conduct a reduction in force in fiscal year 1991 because
15 of increased work and attrition and notes that a revised
16 request will be submitted for fiscal year 1992.
17 Do you agree with that sentence?
18 A. I do.
19 Q. Attachment 2 is a memorandum dated August 20,
20 1991 which I received from the commander of the
21 Philadelphia Naval Shipyard requesting approval to conduct
22 a reduction in force in the second quarter of of fiscal

1 year 1992 as originally requested.

2 Do you agree with everything in that sentence?

3 A. I do.

4 Q. Attachment 3 is my letter forwarding

5 attachments 1 and 2 to the Assistant Secretary of the

6 Navy, Manpower and Reserve Affairs, which cancels the

7 earlier request for approval of a reduction in force in

8 fiscal year 1991 and states that a reduction in force in

9 the second quarter of fiscal year 1992 will still be

10 required.

11 Do you agree with everything in that sentence?

12 A. I do.

13 Q. Did you have any communication with Admiral

14 Claman regarding any aspect of a reduction in force at the

15 Philadelphia shipyard subsequent to July 1, 1991?

16 A. I did.

17 Q. When was that?

18 A. Just during the time frame that we had adjusted

19 our RIF request.

20 Q. That would have been August of 1991?

21 A. Yes, I believe so.

22 Q. Was it a phone call or a face-to-face meeting?

1 him. He has testified with respect to the document. The
2 document speaks for itself. He doesn't have to
3 characterize whether other people might take a different
4 view of it.
5 MR. DAVISH: I'm asking him his view of it.
6 MR. GARVEY: He doesn't have to characterize, it
7 seems to me, his view of it either.
8 MR. DAVISH: Are you instructing him not to
9 answer?
10 MR. GARVEY: Yes. This document speaks for
11 itself. If you have another question, with respect to it
12 you may ask it, but the document is what it is. He
13 doesn't dispute that he signed the document; he doesn't
14 dispute that he sent it.
15 BY MR. DAVISH:
16 Q. Admiral Claman ordered you to request RIF
17 authority for 800-and-some people for fiscal year 1992 for
18 the shipyard. Isn't that correct?
19 A. No. He did not order me to do that.
20 Q. Were you free to disobey his directive, after
21 that phone conversation to which you referred?
22 A. Yes. I was.

1 what happens with whether the Navy's determination to
2 close the shipyard is reversed, the shipyard will still
3 have to close. Isn't that right?
4 A. If the Navy decides not to close the shipyard,
5 then they must have a need for the drydocks, and if they
6 have a need for the drydocks, then work will come.
7 It is just the Navy would not make a decision
8 not to close Philadelphia Naval Shipyard, without putting
9 work in it, irrespective of mothballing.
10 Q. Has there been a discernable effect on morale of
11 the shipyard employees as a result of your RIF request for
12 fiscal year '92 of 800-and-some people?
13 A. No. It hasn't been discussed with the work
14 force.
15 Q. It hasn't been announced?
16 A. Nor discussed. Either one.
17 Q. Would you ordinarily announce or discuss a
18 request for RIF with the work force before you sought that
19 authority?
20 A. No. In fact, it's quite the opposite.
21 Q. Well, don't you seek input from some personnel
22 at the shipyard?

1 Q. You still can't hazard an opinion -- an educated
2 opinion as to what the effect of that news of the '92
3 RIF's will do to the shipyard morale?
4 A. I think it would be not -- probably not good,
5 but it depends on how big the RIF would be, which is based
6 upon on what kind of workload, or what the workload shifts
7 are at the shipyard.
8 It may never come to pass. There is always that
9 potential, and you can be sure that I am working to try to
10 not have a RIF.
11 Q. What are you doing, in order to try to not have
12 a RIF?
13 A. Trying to bring work into the yard and let
14 attrition takes its toll, and also working -- have worked
15 with the unions, in working out an agreement how to cross-
16 train -- not cross-train, but how to retrain craftsmen
17 from one trade to another permanently, so that we can
18 eliminate the imbalance problem. And then, shift and work
19 and work the problem down as our shipyard attrits -- and
20 still make all the requirements that the Navy may have.
21 Q. What kind of requirements do you make reference
22 to?

1 question is I really don't know. I wasn't consulted and I
2 wasn't there.
3 MR. DAVISH: I think that's all. Thank you very
4 much for your time.
5 MR. GOULIAN: Can we take a break?
6 (Recess.)
7 MR. GOULIAN: I just have a few questions.
8 EXAMINATION BY COUNSEL FOR DEFENDANTS
9 BY MR. GOULIAN:
10 Q. Captain Clark, you testified earlier that you
11 were not specifically asked for your opinions concerning
12 base closure, is that correct?
13 A. That is correct.
14 Q. Does that mean that the people above you were
15 not aware of your opinions?
16 MR. DAVISH: Objection. How would he know?
17 THE WITNESS: In my opinion, they were aware.
18 BY MR. GOULIAN:
19 Q. And how were they aware?
20 A. Just through very informal conversations -- a
21 piece here, a piece there.
22 Q. And is it correct that they never specifically

1 asked you for information, or did they ask you for
2 information?
3 A. Did they did not ask me for information.
4 Q. Did you provide any information?
5 A. Yes, I did.
6 Q. And what was that information?
7 A. It is called the seven volumes of information
8 that resulted from the memorandum that was written by
9 Captain Overton, and we put it together for anybody who
10 wanted to use it, that talked about what the value of the
11 shipyard was and what needed to be done to keep it open.
12 Q. And who did you send those seven volumes to?
13 A. One volume is in the shipyard and one volume
14 went to NAVSEA.
15 Q. By one volume, do you mean one set?
16 A. One set, yes.
17 Q. One went to NAVSEA?
18 A. Informally, not under a letter of transmittal.
19 Q. And when was that?
20 A. Oh, early 1990 -- shortly after that, sometime
21 after that February 1990 memorandum, early to mid-1990's.
22 Q. And did you express your opinions concerning

1 base closure or closure of the Philadelphia shipyard in
2 those volumes?
3 A. In a sense we did, yes.
4 Q. By "in a sense" could you clarify?
5 A. Well, clearly, we gave forth some arguments
6 relative to drydocks and other issues that could be useful
7 in arguments to keep the shipyard open.
8 MR. GOULIAN: I have no other questions.
9 MR. DAVISH: I would like to ask a couple more
10 questions.
11 EXAMINATION BY COUNSEL FOR PLAINTIFFS
12 BY MR. DAVISH
13 Q. Captain Clark, it is a fact, isn't it, that you
14 -- or to your knowledge, no one at the shipyard ever had
15 an opportunity to refute any facts or data gathered by or
16 relied on by the Navy Base Structure Committee. Isn't
17 that right?
18 A. That is correct.
19 Q. And the document that you referred to as the
20 seven volumes of information, that was not prepared
21 specifically to address the question of the potential
22 closure of the Philadelphia Shipyard, was it?

OFFICIAL TRANSCRIPT
BEFORE THE

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SENATOR ARLEN SPECTER, et al.,

Plaintiffs,

v.

H. LAWRENCE GARRETT, III, et al.,

Defendants.

CIVIL ACTION NO.

91-CV-4322

Hon. Ronald J. Buckwalter

Washington, D.C.
Wednesday, September 11, 1991

Deposition of JIM COURTER

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1 A. We received all the testimony that we thought
2 was appropriate. The information that we gathered was
3 gathered, as you know, from lots of different sources.
4 One obviously was members of Congress testifying.
5 On two different or more occasions we had public
6 hearings.
7 We had base visits.
8 We had telephonic communication with people that
9 advocated nonclosure of Philadelphia, including high
10 elected officials.
11 We had thousands of pieces of mail from the
12 Philadelphia region. We received dozens of pieces of mail
13 and backup data, information, reports from members of
14 Congress both in Philadelphia and New Jersey.
15 I met personally with a volunteer organization
16 advocating Philadelphia be used as an aegis center of
17 excellence in the office on at least two occasions,
18 spending many minutes, probably hours, with them.
19 I spoke on the telephone personally with
20 advocates of those people that were biased in favor of
21 keeping Philadelphia open.
22 In order to make our decisions, making sure we

1 had all of the evidence, we continued to get evidence from
2 multiple areas, from various sources, and that process
3 continued from the day Philadelphia was placed, in fact
4 before because I met with a citizens group even before
5 Philadelphia was placed formally on the list. That
6 process continued right up until our final deliberations
7 the last couple of days.
8 Q. As Mr. Ted Koppel often says, Mr. Chairman, that
9 was an excellent answer but not to the question which I
10 asked. I would appreciate it if you would answer the
11 questions which I ask. I know that you have a lot that
12 you want to say, and you will have plenty of time to say
13 it, but please answer the questions which I ask.
14 I'm talking about Admiral Hekman and Admiral
15 Claman now. I asked you why you made no effort to get
16 them to testify.
17 A. I don't think that was your question. That is
18 certainly not my answer.
19 The answer is that we invited, I know, Hekman to
20 testify if he wanted to before the commission. He
21 indicated to our lead staff member who is a civilian, who
22 was the head of the review and analysis team for the Navy,

1 Alex Yellin, that he did not want to testify personally
2 but he would be happy to discuss the entire process, his
3 decision, his thinking with him. He did so, and so we
4 have the benefit of his thinking through Alex Yellin.
5 There was a long telephone conversation.
6 Senator Arlen Specter spoke with Hekman at least
7 on two occasions, and all that Admiral Hekman put in
8 writing was given to the commission and, as a matter of
9 fact, was a very interesting letter to the editor, I
10 think, that Hekman subsequent to all of this published or
11 had published in the Philadelphia Enquirer, which I read
12 with great interest, by the way.
13 Q. I'm sure you did.
14 Didn't it disturb you when you learned that
15 Admiral Hekman had intended to testify before the
16 commission but had been asked by a senior Navy official
17 not to?
18 A. That is not -- it is my understanding that is
19 not Hekman's recollection. The best thing to do, I guess,
20 is to depose him. All I did was read his op ed or his
21 letter to the editor, and he said it was his decision, and
22 he gave us all the information he had.

1 Hekman?

2 A. No.

3 Q. Why not?

4 A. Ask him. He was invited to testify.

5 Q. I'm asking you. Mr. Yellin told you that he was

6 told by a Navy senior official not to testify. Didn't

7 that disturb you?

8 A. Did it disturb me? What we wanted was to get

9 all of the data so we could make an informed, unbiased

10 decision.

11 Q. Independent?

12 A. Independent decision, absolutely. And we had

13 access to Hekman's statements when it came to

14 Philadelphia. They were clear so anybody reading them

15 would understand them. And in addition -- and this is not

16 something that we were required to do -- I had our staff

17 talk to him, and Alex Yellin spoke to him, I think, on

18 various occasions more than once, reported back to the

19 members of the commission. Senators spoke to Admiral

20 Hekman, so the opinion of Hekman was part of the record

21 and information we used in our deliberation.

22 Q. Did you permit Senator Specter to testify at a

1 the Philadelphia Naval Shipyard?

2 A. In recognizing the wrath may come down upon my

3 head, I want to answer the question in the following

4 manner, and it's the only honest way to answer the

5 question.

6 And that is, the commission created an

7 opportunity for all members of Congress to testify. We

8 had two full days of hearings in Washington, D.C., I

9 believe, for members of Congress. We had more than two

10 full days of hearing, but we had two for members of

11 Congress. We probably received the testimony of over 200

12 members of Congress.

13 Also, those members were permitted to testify

14 during the base visits and the hearings that we had, the

15 public hearings that we had out of Washington, D.C. There

16 came a time when the public hearing, when the public

17 hearing -- when I talk about a public hearing I'm talking

18 about appropriate public notice in the Federal Register so

19 there would be a hearing that was publicized and broadcast

20 on radio and television.

21 There came a time when the commission had to

22 move on and hear from other people besides members of

1 Congress, and that was very late in the process.
2 Therefore, there came a time when members of Congress were
3 urged to supply all additional information, evidence,
4 documents, arguments, testimony, either verbally,
5 telephonically or in writing.
6 So the appropriate answer to the question was
7 that Senator Arlen Specter, Congressman Kurt Weldon, and
8 every member that represented people in South Jersey or
9 the Philadelphia region in Pennsylvania continued to
10 supply us with data and information which was in fact part
11 of the official record which was read, digested and used
12 by the commission in rendering its decision.
13 Q. Do you deny, Mr. Chairman, that Senator Specter
14 asked to appear at the public hearing of your commission
15 after he received the memorandum from Admiral Hekman which
16 the memorandum is dated 15 March 1991 which he didn't
17 obtain or he didn't obtain it from the Navy incidentally,
18 that he asked to appear and was refused?
19 A. I remember -- and I'm going to answer this in a
20 yes or no as soon as I elaborate on it.
21 I remember Arlen Specter calling me up a few
22 times. We talked a number of times about this. He's a

1 wonderful advocate of his position and does a wonderful
2 job, and he talked about in great detail the new data he
3 said he got, the Admiral Hekman letter or information, and
4 we gave him, I gave him an ample opportunity to explain it
5 to me, and he did, as did many other members of Congress,
6 not only he but many members redundantly reexplained as if
7 it was brand new material, something that we had been
8 looking at and studying for 20 days.
9 Q. You had the Admiral Hekman memo for 20 days?
10 A. Sure. By the time we rendered our decision,
11 more than that.
12 Q. For 20 days before Senator Specter said --
13 A. No, before we rendered our decision. There came
14 a time, and I don't recall the dates, that we had set
15 aside, the commission had set aside the last remaining
16 days for decisions, deliberations and decisions. There
17 had come a time just like in a court of law when you had
18 to move on and deliberate and make a decision.
19 And I remember Arlen Specter coming on one of
20 those days that was not for purposes of testimony and
21 sitting down in the witness chair and saying could he be
22 recognized to testify, and I said no, we are here to make

1 decisions. We are voting today. And he quietly left.
2 And that was very, very late. That could have
3 been the Friday -- let me see. We met on Friday and then
4 on Sunday, the 30th, and so it was probably Friday the
5 28th. But I'm guessing. It was very, very late that he
6 asked. He came to the hearing when everybody knew, we had
7 notified the Congress, everybody that the public hearing
8 and the testimony ended, and we were there to now
9 deliberate and make decisions, and the Senator asked to
10 testify, and he was not provided that opportunity.
11 Q. Would you identify for me, sir, the data, all of
12 the data that you or your commission received from Naval
13 Sea Systems Command?
14 A. Describe all the data?
15 Q. Tell me what you got from them. You said you
16 got all of that data that you needed from everybody. What
17 did you get from Naval Sea Systems Command? You didn't
18 get anything, did you?
19 A. The best way to describe the data that we
20 received is to show it to you, and we received a lot of
21 data from the Navy, and I'm sure you have access to that
22 data.

1 you where we got it from.

2 Q. This was from the Navy.

3 A. I don't know where it came from.

4 Q. This was produced by the Navy.

5 A. You have to understand our office. I don't

6 necessarily know where we get data.

7 Q. Well, we have one from your office. We will get

8 it and mark it, but there was one in your file I am told,

9 and so we will get that and mark it, too.

10 But the point that I'm trying to get at is after

11 a United States Senator produces documents from the Navy

12 which are relevant to the matter which you are considering

13 which had not been produced by the Navy and asked to be

14 recognized at a public hearing of your commission, you

15 turned him down; correct?

16 A. No. I spoke with him on the phone. I wrote him

17 saying to send me all information and data, whatever

18 arguments you had. He spoke individually to other

19 commissioners. And so I didn't turn him down in the sense

20 that he was provided full opportunity to argue his case

21 and to present data and information, and he did.

22 Q. At a public hearing?

1 A. No, but our --

2 Q. So you turned him down for a public hearing?

3 A. But you have to understand I went through that,

4 and I explained it to you. It was very late in the

5 process when testimony was over for everybody.

6 Q. I just want to refresh your recollection, sir,

7 that what he wanted to testify about was a relevant

8 document from the Commander of the Naval Sea Systems

9 Command which had not been turned over by the Navy to your

10 commission.

11 A. He had the opportunity to argue his case. He

12 did so in person to me. He did so on the telephone to me.

13 He wrote me letters.

14 Q. All I'm trying to establish that you refused him

15 the opportunity to testify at a public hearing.

16 A. I already answered that question the best way I

17 know how. It can't be answered by yes or no, and you have

18 to accept the answer.

19 Q. And that was after you knew that he had obtained

20 from some source, not directly from the Navy, a document

21 that the Navy had not seen fit to produce to this

22 commission?

1 MR. ANDERSON: There's a lot in that question, a
2 lot of parts to it that, as far as I'm concerned, are not
3 of record.
4 But to the extent that you know the answer, go
5 ahead.
6 THE WITNESS: I know the answer by saying that
7 Arlen Specter, Kurt Weldon, Rob Andrews and probably 10 or
8 15 other members of Congress spoke to me personally, wrote
9 letters to me and spoke to me on the telephone, giving me
10 all of the information and all of the arguments. So that
11 they were provided the opportunity to come to the
12 commissioners and give us their story, and they did. They
13 used that opportunity. We purposely kept the record open
14 so that we could avail ourselves of the information.
15 Obviously during the two last days that were set
16 aside for decisionmaking, we could not accept additional
17 testimony from members of Congress. Otherwise, there
18 wouldn't have been time to make the decisions.
19 Q. It didn't disturb you that the Navy didn't
20 produce these documents?
21 A. I would have been happy had they produced them,
22 but I'm glad we got them. I think that shows, frankly,

1 how this particular process was so much better than 1988
2 because of the public nature of it.
3 Information was received from various sources,
4 from the communities, from members of Congress, from
5 private citizens, from labor organizations, and our record
6 was open until the last three days of deliberations.
7 Q. You are aware that under the statute it was the
8 obligation of the Navy to provide your commission all
9 documentation which was relevant to the consideration
10 before you? Isn't that correct?
11 MR. ANDERSON: I'm going to object to that
12 insofar as it calls for a legal judgment about what the
13 statute requires.
14 BY MR. KAUFFMAN:
15 Q. What was your understanding of the statute?
16 MR. ANDERSON: I object to that, too, but he can
17 answer it.
18 THE WITNESS: May I look at the statute?
19 MR. ANDERSON: Do you want to cite him to a
20 specific section?
21 THE WITNESS: What part of the statute are you
22 referring to?

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1 the respect that the recordkeeping was not as good and it
2 was, therefore, in the beginning difficult to find out how
3 they complied with the final selection criteria.
4 Q. Recordkeeping not as good?
5 A. Obviously it wasn't as good.
6 Q. Mr. Chairman, you know the General Accounting
7 Office concluded the recordkeeping of the Navy was totally
8 inadequate for them to even tell you whether they believed
9 that the Navy had followed the processes required by the
10 statute or not; isn't that correct?
11 A. Now you are certainly exaggerating.
12 Q. I am?
13 A. Yes.
14 Q. You as Chairman of the commission said I
15 exaggerated in what I just said?
16 A. Yes. I think that is an exaggerated statement.
17 Q. In what way?
18 A. I will explain really what happened. We,
19 ourselves, as you know, and you will probably mark in
20 evidence one of the statements I made at a press
21 conference, had difficulty in the record when it came to
22 the Navy, and the reason we had difficulty was that they

1 used to determine these closures part of an old report
2 called the VCNO Study that in conjunction with the
3 deliberative group that had oral discussions totally
4 permitting the venting of contrary and opposite decisions.
5 So the Navy was at least blessed with the dissenting
6 opinion throughout this whole thing.
7 And we and GAO, because the records of those
8 discussions were not verbatimly transcribed, had
9 difficulty making sure that the decisions based on
10 discussions and the VCNO Study could be translated into
11 the eight final selection criteria.
12 That was the GAO's problem. That was our
13 problem. That, therefore, required us to meet with the
14 Base Structure Committee of the Navy --
15 Q. In private?
16 A. I'm in the middle of a sentence.
17 Q. In private?
18 A. I'm in the middle of a sentence.
19 MR. ANDERSON: Can he finish his answers? Then
20 you can follow up.
21 THE WITNESS: Meeting with the Base Structure
22 Committee such that a proper map could be made and we

1 could translate one language into the other.

2 When it was done, everybody, all the

3 commissioners, Alex Yellin who headed our review and

4 analysis for the Navy, was satisfied that then finally we

5 could justify the Navy's conclusions when it came to all

6 of their facilities throughout the United States.

7 So the problem really was recordkeeping, in that

8 we had to go back and translate basically from one

9 language to another when it was eventually done.

10 I might add, Mr. Kauffman, GAO had people

11 working in our office day in and day out.

12 BY MR. KAUFFMAN:

13 Q. For you, not for the GAO.

14 A. The GAO people were working for the independent

15 nonpartisan commission that rendered an independent

16 decision.

17 Q. Not working for the GAO?

18 A. Of course not.

19 Q. Don't say it substituted the duty of the GAO,

20 because you wouldn't want to mislead us, would you?

21 A. Of course not. Nor did you want to mislead me.

22 My point here is that those individuals that

1 the beauty of the process. We were not advocates. We
2 were objective. We went with no biases.
3 Q. You did expect the Navy to demonstrate to you
4 that they had complied with the mandates of the statute?
5 A. That is correct, and that is why we had the
6 meeting with the BSC commission on a number of occasions,
7 and finally we're satisfied that we could track their
8 process and we're satisfied.
9 Q. You did that in private; right?
10 A. It was done not by any commissioner. It was
11 done in our office.
12 Q. Mr. Yellin did it; right?
13 A. Others were there, I'm sure.
14 Q. In private?
15 A. I'm not sure what you mean by private.
16 Q. It wasn't in public. No member of the public
17 was there to hear this?
18 A. It wasn't a hearing. The statute requires that
19 our hearings be in public. It doesn't require every time
20 I go in the office that I have to notify the Washington
21 Post and CNN. Our hearings were supposed to be in public.
22 The information we received was always made to public to

1 us. In fact, any reporter at any time could come in our
2 office at any occasion, night or day, and Xerox anything
3 on any desk whatsoever unless it was classified, and we
4 adhered to that principle.
5 Q. Do you know why Admiral Claman thought the Naval
6 Shipyard should not be closed in Philadelphia?
7 MR. ANDERSON: He said he didn't even know that
8 was Admiral Claman's position.
9 BY MR. KAUFFMAN:
10 Q. You don't even know that?
11 A. No, I don't. I don't recall. I'm sure if I was
12 reintroduced I might recall, but I don't know.
13 Q. Did you ever see Admiral Claman's memorandum to
14 the Chief of Naval Operations?
15 A. Not to my recollection.
16 Q. Did you know that a March 1991 memorandum from
17 Admiral Claman, who then was Commander of the Naval Sea
18 Systems Command, to the Chief of Naval Operations
19 confirmed that the Navy's utilization of shipyards for
20 large amphibious ships and other large vessels would be
21 between 82.4 percent and 106.9 percent for the fiscal
22 years 1992 through 1997?

1 As a matter of fact, there were people in the
2 Navy that feel that we should have even looked at another
3 shipyard to bring down. Eight public shipyards, and we
4 took down one to make it seven. Frankly, that is
5 probably, looking at the evolving world situation, is not
6 sufficient. We will have to make further cuts in future
7 years to be efficient. That is what we're trying to do.
8 Difficult, tough decisions, not pleasant ones but ones
9 that have to be made.
10 Q. How did you determine that the Navy complied
11 with the eight selection criteria developed by the DOD?
12 A. That probably the answer to that is best made by
13 Alex Yellin. What we did was -- and we went over this
14 earlier this afternoon -- was to look at the VCNO study
15 and then interview the group that comprised the BSC and
16 talk to them and were satisfied that we could interpret
17 their old data and translate it into the eight final
18 selection criteria.
19 And the commission itself and then through
20 questions of the Navy officials, through questions of
21 people that testified at public hearings, through
22 telephone conversations with members of Congress, et

1 cetera, and experts on both sides of the issue made their
2 own independent judgments that, indeed, there was excess
3 capacity, and the only way for these shipyards to be
4 efficient was to close one.
5 And then the question became which one do you
6 close, and our unanimous decision although it was
7 difficult was that Philadelphia is the one to close
8 because of various reasons.
9 Q. Mr. Chairman, you didn't hear the testimony of a
10 single Naval person who did not favor closure of the
11 Philadelphia Naval Shipyard, did you?
12 A. Of course, nor would I expect to. Keep in mind
13 that the Navy is just like the Army and the Air Force. We
14 didn't expect some high ranking Air Force general to
15 testify that Moody -- not Moody. Well, I'm trying to
16 think of an Air Force facility -- Bergstrom Air Force Base
17 should be closed or should remain open.
18 Obviously, the Navy's job was to abide by the
19 statute just like the other services, was to render their
20 best judgment as to the way to match and fit forces with
21 structure, which is a difficult but a necessary
22 requirement. And once the Navy or the Army or the Air

1 Q. And so you were so advised, is that correct?
2 A. And not only were we advised, we complied with
3 the statute requirements of openness and publication.
4 Q. Mr. Chairman, I thought you just told me not 5
5 minutes ago that Mr. Yellin and your group went over to
6 the Base Systems Committee in private and got information
7 from them?
8 A. Well, first of all, it was in our office. And,
9 second of all, it was not a hearing. It was not a base
10 visit. It was not a commission deliberation. This was
11 staff only. And, obviously, when they met, they were not
12 required under any stretch of the imagination to publish
13 in the Federal Register and declare an open, public
14 meeting. And that is the way you notify the public.
15 Q. They did not even take any minutes?
16 A. What counsel was talking about, you read the
17 words, you read them very carefully. Everything he said
18 was complied with. Everything he said is true.
19 Q. It requires all your deliberations?
20 A. The deliberations.
21 Q. All your discussions?
22 A. Are public discussions amongst commissioners.

1 Q. It did not say public discussions.

2 A. Our discussions amongst commissioners. That's

3 what the statute requires. It doesn't require that when

4 two staff members sit down in our office there has to be

5 public notification in the Federal Register.

6 Q. If any member of the press wanted to drop by

7 your office, sit at your desk, and open your drawers, they

8 could take anything out of there they wanted to?

9 A. Some did I think.

10 Q. That is the kind of openness that you, yourself

11 understood the statute to require?

12 A. Yes. Everything we got in our office was open

13 for the press to xerox, unless it dealt with classified

14 information, of course.

15 Q. What minutes were taken of these meetings

16 following the General Accounting Office report that your

17 people had in secret with the Navy people?

18 A. Now, the meetings that you are attempting to

19 characterize, which I don't agree with the

20 characterization --

21 Q. You have already said they were not open. They

22 were not public. So they are in secret, aren't they?

1 had lots of meetings.

2 Q. All right, the BSC meeting, the Base Systems

3 Committee.

4 A. The Base Structure Committee.

5 Q. All right, the Base Structure Committee. These

6 meetings were called because the GAO said to you that you

7 did not have enough information, they did not have enough

8 information?

9 A. No. That was one of the reasons, but the real

10 reason is we wanted to independently, regardless of what

11 GAO had said, we wanted to independently corroborate the

12 process, the fairness of it, and the accuracy of it, and

13 validity of the data.

14 Q. And that was not a secret meeting, right?

15 A. When you say a secret meeting, there was staff,

16 our staff met with the BSC without public notice in the

17 Federal Register because there was no statutory

18 requirement that that be done.

19 Q. Why did you refuse Senator Specter admission to

20 those meetings?

21 A. I didn't.

22 Q. Who did?

1 A. I don't think he was ever denied access to those
2 meetings, to be honest with you.
3 Q. So if it was done, it was done not to your
4 knowledge?
5 A. That would be correct.
6 Q. And you would have let him in there?
7 A. Sure, if he wanted to come down he could come in
8 there. I remember the area very well. There was I think
9 maybe one or two staff members of Senator Specter's staff
10 that either called up or faxed a letter saying they were
11 coming down. I was, I believe, on the West Coast at the
12 time, or someplace, travelling to bases.
13 And I discussed this with the Chief of Staff,
14 Matt Behrmann. And I said in order to make sure that our
15 staff meetings are business sessions and not sessions
16 where hundreds of staff members from the House of
17 Representatives would inundate if a Senator or a member of
18 the House in writing asked that a staff member visit any
19 of our meetings, the answer would be yes.
20 Q. Well, why wasn't that complied with?
21 A. Excuse me?
22 Q. Why was that not complied with?

1 A. I'm sure it was.

2 Q. You are sure that Senator Specter's staff was

3 permitted access to those meetings?

4 A. But I'm sure by the time that occurred the

5 meetings were over. In other words, I was advised of --

6 Q. You were going to open them up after they were

7 over?

8 A. No. I said, in other words, I was on the West

9 Coast I think when we were totally inundated with staff

10 coming by, dropping by, and calling up, et cetera, which

11 was not too much of a problem, although, you know, we had

12 space limitations. And Matt Behrmann indicated to me that

13 there was one or two very aggressive staff members in

14 Arlen Specter's office that wanted to drop by. I said,

15 well, I want to make sure they're authorized to do so.

16 So if any staff member gets written

17 authorization or request from a member of Congress, that

18 then the staff member can in fact sit in on any meeting.

19 Although that of course is not required under the statute

20 either, but we wanted to do that by way of accommodation.

21 Q. But it was too late then; the meetings were

22 already held?

1 article, the second full paragraph, which reads, "Courter
2 identified two problems with the work of the 1989
3 Commission. 'It was a very secretive process,' he said.
4 Neither the GAO nor members themselves, nor committees
5 felt that they were included or could even follow the
6 work. And when the list for base closings was made
7 public, the commission was eliminated.
8 "The second problem was that some of the data
9 was not independently reviewed by outside objective
10 experts. So, some of the information was incorrect."
11 Did you say that?
12 A. Yes.
13 Q. And then you went on to say the two problems had
14 been rectified. "'The GAO has a role,' he said, 'it
15 reports before and after the commission makes their
16 report. Members of Congress will have total access to our
17 work and to the process. The hearings are open to the
18 press, the public, and Washington, and in different parts
19 of the country.'"
20 Did you say that?
21 A. Yes.
22 Q. When you referred to the second problem of the

1 earlier process, that some of the data was not
2 independently reviewed by outside objective experts, so
3 some of the information was incorrect, and that problem
4 had been rectified. And that rectification came in the
5 role of the GAO, is that right?
6 A. No. Not only -- what I'm referring to is
7 public, press, outside technical experts that presented
8 their written arguments to the commission. Members of
9 Congress who basically acted as a pipeline of information
10 and technical data that was, by virtue of creating this
11 process, whereby commission deliberations and hearings,
12 public hearings, and base visits, it permitted the public
13 and the experts that community leaders and elected leaders
14 could submit their own data and information.
15 I mean, they sometimes would say that the runway
16 is not 7,800 feet, but in fact it's 8,400 feet, and that
17 makes a difference. And we would check it out. So that
18 was part of the process this time that wasn't available
19 when the Ribicoff-Edwards Commission met.
20 In other words, communities -- and I know I
21 shouldn't go on -- but many communities retained retired
22 military people, attorneys, experts in data, that would

1 submit information. And we would critically look at that
2 information until we came up with the correct information.
3 Q. Is it true to say to ensure GAO's role during
4 the 1991 commission's analysis, Congress gave GAO a clear
5 role in the 1991 process?
6 A. Is that an accurate statement?
7 Q. Yes.
8 A. It depends upon what the role means. But the
9 answer is yes.
10 Q. Well, your counsel is showing you that you said
11 that you in your own book, didn't you?
12 MR. ANDERSON: Well, it is the commission
13 report.
14 BY MR. KAUFFMAN:
15 Q. Well, that is your book, isn't it?
16 A. Yes. But even in my book it depends on what you
17 mean by role. Obviously we know what we meant by role
18 since we wrote it and we agree.
19 Q. The statute says that by no later than May 15th
20 of each year in which the Secretary makes such
21 recommendations, the GAO shall transmit to Congress and to
22 the commission a report containing a detailed analysis of

1 the Secretary's recommendations and selection process,
2 right?
3 A. Correct.
4 Q. That is provided for by the statute?
5 A. Yes.
6 Q. And the Navy prevented the GAO from doing just
7 that, didn't they?
8 A. No. That wouldn't be my interpretation. The
9 GAO did analyze the Navy's process and concluded after
10 that analysis and the interviews that it was
11 insufficiently documented for them to render an
12 independent judgment on the process. The GAO did exactly
13 what they were supposed to do.
14 Q. And that is what you understand the GAO report
15 to say?
16 A. Yes. Well, you read it before. That is what
17 they said. They kept on talking about insufficient
18 documentation. I think they used that word 5 times. You
19 read it.
20 Q. But they made other conclusions too, didn't
21 they?
22 A. That was their main one, the lack of

1 documentation for GAO to render a decision on the
2 correctness of the process. That's generally in layman's
3 terms what the GAO criticism was.
4 Q. Maybe you did not hear me before, but I will
5 read it again. on page 48 of the GAO's report, which was
6 marked as Courter 5. The GAO says, "In addition to the
7 limitations placed on our review by the lack of adequate
8 documentation."
9 A. Yes. That's why I said they lacked
10 documentation.
11 Q. But now they are saying in addition to the
12 limitation placed by reason of inadequate documentation
13 they identified three problems with the Navy's process.
14 A. But the point is the GAO couldn't verify that
15 the Navy complied with the statutory mandates because the
16 record was incomplete. Everything stems from the
17 inadequacy of the record, which is the reason we met with
18 the BSC and others to try and interpret what they did.
19 And we did with satisfaction.
20 But everything stems from the fact that the
21 documentation of the record was incomplete. It's
22 important to keep in mind that at no time did anybody that

1 I know of, outside obviously of people that took total
2 disagreement with the work product, but no one in the
3 commission, no commission members, nor did GAO, ever say
4 the Navy's opinion is wrong.
5 What they said was we can't verify that they
6 adhered to the statutory requirements because the record
7 is incomplete and documentation was not there.
8 Q. Maybe you did not read the GAO report very
9 carefully, Mr. Chairman. They concluded the Navy had not
10 treated all bases equally, didn't they? Which the Act
11 requires them to do.
12 A. There was insufficient documentation for them to
13 make that determination. Everything stemmed from the fact
14 that they couldn't document it.
15 Q. In their report at page 48, they say, for
16 example, the committee had given identical ratings to two
17 naval stations on each of the first four DOD selection
18 criteria, but had assigned an overall rating of green to
19 one and yellow to the other.
20 Similarly, the committee had assigned identical
21 ratings to six naval air stations for the first four DOD
22 selection criteria. Four bases were assigned an overall

1 rating of yellow, and two an overall rating of green.
2 These inconsistencies are significant because any base
3 given an overall rating of green based on the first four
4 DOD selection criteria was excluded from further closure
5 or realignment consideration.
6 In explanation, committee members stated that
7 not all yellows are equal and not all greens are equal.
8 Since the committee did not document these differences we
9 could not determine the rationale for its final decision.
10 MR. ANDERSON: What is the question?
11 THE WITNESS: I understand the question.
12 MR. ANDERSON: I do not understand the question.
13 I need to understand the question.
14 BY MR. KAUFFMAN:
15 Q. What documentation did you later get, if any, on
16 this subject?
17 A. The interpretation, in other words, what we
18 mentioned before, all the GAO was saying here, and it was
19 significant, there is no doubt about it, was the fact that
20 they couldn't render an objective decision as to whether
21 the Navy complied with the statutory requirements in
22 applying the eight selection criteria, and also making

1 sure that the force structure was complied with. The
2 bases that met the force structure, the documentation was
3 not there.
4 What we did was to analyze the VCNO study, then
5 to sit down with members of the BSC, the Base Structure
6 Committee, and interview them. And based on their
7 explanation, we could then make an independent judgment
8 that their conclusions, their conclusions with regard to
9 which facility should be realigned and which should close,
10 were based on information which could be translated into
11 the final selection criteria.
12 Q. What documentation did you get of that?
13 A. We have the explanation of those members of the
14 BSC and the documents they provided us. You would have to
15 talk to Alex Yellin about it.
16 Q. You do not know?
17 A. Offhand I don't. I mean, talk to Alex Yellin
18 about it. He was there. I was not at the meeting.
19 Q. You know that the GAO concluded that the Navy
20 had not complied with the Secretary of Defense's
21 record-keeping and internal controls requirements, isn't
22 that right?

1 A. Yes. That has to do with control and
2 record-keeping -- is basically the same thing. The record
3 was insufficient, and therefore they couldn't determine
4 the rigthness or wrongness of their ultimate decisions on
5 which bases should be closed.
6 Q. But the Navy had not complied with those
7 requirements?
8 A. Well, the language is I think pretty clear. And
9 the language in the GAO report says many, many times that
10 there was an insufficient record. In essence, the
11 documentation was lacking and therefore, they couldn't
12 comment on the correctness of the process. And therefore,
13 we rectified that.
14 Q. And the statute required that the GAO be able to
15 do that, didn't it?
16 MR. ANDERSON: Look, the statute speaks for
17 itself.
18 BY MR. KAUFFMAN:
19 Q. Did you ask the Navy to give the GAO any more
20 information so that it could file an amended report?
21 A. I'm almost positive not. Because our job was
22 simply not to make the GAO happy, but was to get the job

1 done. And GAO complied with the statutory requirement by
2 rendering a written opinion on the process by May 15th,
3 and did so. Then the torch was passed to us.
4 And we did our work and made sure that we could
5 understand their process, to the degree that we were
6 satisfied that they complied with the selection criteria,
7 and we did.
8 Q. So your testimony is that you did nothing to
9 enable the GAO to go any further than it was able to go in
10 its report from which we have been reading?
11 A. Our job --
12 Q. Just answer the question.
13 A. The answer is yes, and then you always permit me
14 to give my explanation, and I appreciate that. Our job
15 was not to make the GAO happy. Our job was to make sure
16 that we rendered independent, accurate decisions on which
17 bases should be closed. And we had to very immediately go
18 to our task, sitting down and digesting all the reams of
19 data and information, and also understanding the process
20 of the Navy, which we did.
21 And we were satisfied that they complied with
22 the selection criteria. And applied those selection

1 criteria appropriately and came up with -- in those cases,
2 we agreed with them. We didn't agree with them on Whidby
3 Island or Orlando, but on Philadelphia we did, that there
4 was no error in their decision. There was no "substantial
5 deviation."
6 Q. But the fact is the Navy, by its lack of
7 documentation, or for whatever other reason, prevented the
8 GAO from performing its statutory role in this instance,
9 isn't that correct?
10 A. My interpretation would be different than maybe
11 yours. It's a very honest one. My interpretation is that
12 the GAO fulfilled its statutory requirement when they
13 published that report. That was their role. Obviously
14 we, understanding congressional intent, bending over
15 backwards to add credibility to our process, invited and
16 actively had GAO personnel sitting day in and day out,
17 working with our Navy team.
18 Q. The GAO concluded because the committee did not
19 document the rationale for its decisions, we could not
20 comment on the committee's closure and realignment
21 recommendations based on the process.
22 A. That's right.

1 Q. You did absolutely nothing to require the Navy
2 to give additional information to the GAO so that they
3 could file an amended report?
4 A. We required that the Navy give it to us so that
5 we could do our statutory job.
6 Q. So you did not require the Navy to give anything
7 to the GAO?
8 A. No. To us. We interpreted -- let me answer the
9 question. Please, let me answer the question. We
10 envisioned our role such that we had to render an
11 independent decision with applying a certain test. And
12 that test was substantial deviation. In order to do that
13 we had to get additional information from the Navy.
14 We sat down with the BSC. We spoke to all sorts
15 of people inside and outside the Pentagon. We came up
16 with sufficient data to clearly conclude unanimously that
17 there was no substantial deviation when it came to
18 Philadelphia and the Navy's work.
19 Q. So your view of the GAO's role was it was
20 meaningless? It could just be eliminated willy-nilly?
21 A. No. They were very helpful. They were very
22 helpful. And GAO personnel continued to be helpful by

1 MR. KAUFFMAN: You need not shout, nor point
2 your finger at me. I can hear you and I can understand
3 you. I did not disagree with you, but I do not think I
4 will disagree as disagreeably as you disagreed.
5 MR. ANDERSON: I think I am only matching the
6 volume of your statements and arguments.
7 MR. KAUFFMAN: Well, you win the disagreeable
8 award.
9 MR. ANDERSON: Thank you.
10 BY MR. KAUFFMAN:
11 Q. I am asking your understanding, Mr. Chairman,
12 and we will let the record speak for itself. I do not
13 think the question has been answered. But if it has,
14 please indulge me. Did you consider it to be part of your
15 role, the commission's role, to make certain in complying
16 with your statutory duties to make certain that the GAO
17 was able to perform its role?
18 A. I will now answer once again this way, and maybe
19 I will answer it slightly different the next time, and
20 each time do a little bit better job. Under the statute,
21 the GAO had a statutory obligation and responsibility to
22 make a report, after examining the process of the three

1 services. That report was published on May 15th, had to
2 be published by May 15th.
3 Under the statute, there is no further reports
4 of the GAO's -- that the GAO statutorily had to give the
5 committee, the public, nor anybody else. When the GAO
6 reported publicly on May 15th that they were unsatisfied
7 with the record-keeping of the Navy, then that helped us
8 target the Navy to make sure that we were satisfied with
9 their process by asking them additional information,
10 making sure that their BSC sat down with our review and
11 analysis team so we could make sure that we could
12 interpret the VCNO study in view of the final selection
13 criteria.
14 Q. Do you mean to tell me you needed the GAO to
15 tell you the Navy had not provided sufficient
16 documentation?
17 A. No. I think they performed their role. We
18 performed ours. As I mentioned to you before, we would
19 have found that out very readily as well.
20 Q. So their role was meaningless?
21 A. No. They performed a very important function
22 that corroborated the validity and the process --

1 Q. The invalidity? They corroborated the
2 invalidity of what they had before them?
3 A. I was in the middle of a sentence. I was
4 talking about the Air Force and the Navy and the Army.
5 Q. You are right. They corroborated the Air Force
6 and the Army's.
7 A. And they also properly indicated, and this was
8 their role, and they statutorily fulfilled their
9 obligation by filing that May 15th report to say there was
10 insufficient data in order to make the same conclusion on
11 the Navy process.
12 So, therefore, our job then was to get the
13 additional information. And we did find out the
14 additional records. And we find that out. So we applied
15 our independent judgment. Found there was absolutely no
16 substantial deviation when it came to the recommendation
17 on Philadelphia.
18 Q. So it is your view that a service, the Navy, the
19 Army, the Air Force, whichever one wanted to, in this case
20 it was the Navy, could simply render the GAO meaningless
21 by refusing to give them sufficient documentation so that
22 they could render their independent judgment as to whether

1 the Navy had complied with the mandates of the statute, is
2 that correct?
3 A. No.
4 Q. Well, that is what happened, isn't it?
5 A. No.
6 Q. Well, what independent report did you get from
7 the GAO as to whether the Navy had complied with the
8 mandates of the statute regarding the structure, with
9 regard to the criteria, the DOD's selection criteria?
10 A. The GAO's role, outside of the fact that they
11 loaned us people, very competent people to work with us,
12 and they did very happily and very well, the GAO's role
13 was over. The GAO is a very busy organization. They
14 statutorily, under this process, are to file that report.
15 They filed the report. Our job was then not to help GAO
16 -- and let me finish. Our job was to make sure that the
17 bases that were recommended for closure were the correct
18 ones.
19 And in 95 percent of the instances they were.
20 When they weren't, when there were substantial deviation,
21 our independent commission, based upon independent
22 judgment, disagreed, filed our own report. And you know

1 the results. It's as simple as that.

2 Q. Well, you told us that you certainly did not

3 need the GAO to tell you that there was not sufficient

4 documentation, right?

5 A. We would have found that out ourselves.

6 Q. You did not need them to tell you that?

7 A. Well, yes, indeed. Because, in time -- in other

8 words, we were under a very, very short time frame. The

9 Secretary of Defense came out with his recommendations on

10 April 15th, the GAO report, May 15th, our final

11 recommendations, after all the public hearings, after the

12 analysis, after running around the country, had to be done

13 by July 1st under the statute.

14 Rather than spending 30 days to determine that

15 the Navy lacked documentation, the GAO told us. And so we

16 could very quickly and very readily rectify the situation.

17 And so in that sense they performed a great service. We

18 didn't have to spend 30 days, as they did, to find out

19 that the record was incomplete.

20 It was very helpful.

21 Q. On page 5 of the GAO's report, which is Courter

22 Exhibit 5, the GAO says that due to inadequate

1 GAO also found that the cost estimating process
2 ignored the cost of Medicare to the Federal Government.
3 However, overall, GAO believes that the recommendations
4 made for base closings and realignments offer an
5 opportunity for substantial savings.
6 Without DOD oversight of the COBRA cost
7 estimating process, each service approached common
8 problems in different ways. Although DOD called for
9 submission of cost estimates expressed in fiscal year 1991
10 dollars, the services used budget data for other than 1991
11 dollars as their baselines for estimating cost and
12 savings.
13 Service costs and savings estimates, as well as
14 payback calculations, did not consistently rely on fiscal
15 year 1991 input data. These errors could reduce estimated
16 annual savings and length of the payback period for
17 several closures.
18 Now, again, you were aware of what the statute
19 required the GAO to do, and you were aware that the Navy
20 had inadequate process to permit the GAO to do it?
21 A. No.
22 Q. Excuse me?

1 A. That is not correct. You said an inadequate
2 process. There was a lack of record-keeping to establish
3 the adequacy of the process, but that is far different
4 than saying the process was inadequate. I want to be
5 picky because I want to be precise.
6 Q. Well, isn't keeping documentation part of the
7 process?
8 A. Yes. And the documentation, the record was the
9 thing that made it impossible for GAO to conclude the
10 appropriateness of their conclusions.
11 Q. And the Navy did not establish required internal
12 controls to ensure the accuracy of the data used?
13 MR. ANDERSON: That is what GAO says.
14 THE WITNESS: That is what GAO says.
15 BY MR. KAUFFMAN:
16 Q. And you knew that they said that?
17 A. Sure we did. We read their report.
18 Q. You do not think that was a defect in the
19 process of the Navy?
20 A. That, to me, all falls into improper
21 record-keeping, of the corroborating the validity of the
22 data. We discovered inaccurate data; some data was

1 inaccurate in many bases -- most bases I suppose had some
2 inaccurate data supplied by all of the services.
3 And the whole purpose of the public hearings and
4 the input we received from communities was to scrub the
5 data, was to verify it. To make sure that our conclusions
6 were based on data that was accurate and data that was
7 corroborated.
8 Q. Well, you were aware that the Navy's conclusions
9 were based on subjective data, not on the calculations of
10 the mandates of the statute?
11 A. No.
12 Q. No?
13 A. That is your opinion, not mine.
14 Q. Very well.
15 I am just wondering, you said that you received
16 the Navy data after the public hearings had completed. So
17 how could the public have scrubbed that data?
18 A. That was a broad statement. If you could be
19 more precise than that I would appreciate it. We received
20 a lot of Navy data long before the public hearings.
21 Q. Well, these meetings that followed the report of
22 the GAO were private, secret meetings. They were after

1 the public hearings?

2 A. Let me just rephrase it to make sure that I

3 understand. I think you are referring to the meeting that

4 Alex Yellin and others had in our office with the BSC in

5 our office. That was staff only. Those meetings?

6 Q. Yes.

7 A. The record will reflect the days they occurred

8 and so I'm not sure what your point is.

9 Q. My point is there was not an opportunity for the

10 public to scrub the data, because the public never knew

11 what the data was. Isn't that true?

12 A. No, that's not true at all.

13 Q. When did the public get that data?

14 A. The data that we rendered our decision was all

15 made public during this entire process. What we were

16 trying to divine and discover at a staff-level meeting was

17 an interpretation of the language, was to make sure we

18 could interpret the VCNO language and make that comply

19 with the final selection criteria.

20 Q. You say in your book here, which I think we

21 ought to make this, the Defense Base Closure and

22 Realignment Commission Report to the President. You say

1 A. You and I would disagree on that, but that's
2 correct.
3 Q. That is what it says.
4 A. I think it is correct.
5 A. And Congress believed that the GAO should review
6 the information and data for accuracy, right?
7 MR. ANDERSON: That is what it says.
8 BY MR. KAUFFMAN:
9 Q. And they did not do that, did they? They were
10 not able to do it because they did not get the information
11 they needed, right?
12 A. I disagree. I totally disagree with you.
13 MR. ANDERSON: Objection. He has answered that
14 several times.
15 BY MR. KAUFFMAN:
16 Q. I thought you told me that they did not have
17 enough information to comment whether the Navy's
18 information was accurate or inaccurate.
19 A. They had insufficient information to make a
20 determination that the Navy's process complied with the
21 process set out under the statute. And they fulfilled a
22 very important role in notifying the public, members of

1 Congress, and our commission of their opinion that alerted
2 us immediately that we had a problem, and we wanted to
3 rectify that problem -- and I'm in the middle of a
4 sentence.
5 The problem would be rectified by going to the
6 Base Structure Committee, interviewing them, and
7 determining their process. And we were satisfied that
8 their process was the correct one. Eventually, it just
9 lacked in record-keeping. Their process was not a bad
10 process. Their data was, frankly, in my opinion, no
11 better or no worse than the Army or the Air Force. We
12 found in all three services data that was incorrect.
13 As a matter of fact, with regard to one Air
14 Force facility, they were incorrect as far as having two
15 runways. They said there was one runway; we said there
16 were two runways. And we concluded there were two
17 runways.
18 And so all of the services had incorrect
19 information. This was all fleshed out during the hearing
20 process, during the base visits. That is the reason we
21 went to talk to the commanding officers, to talk to the
22 community, the head of the chamber of commerce, the base

1 commander, members of Congress, mayors, service clubs,
2 organizations, so we could present them what the services
3 gave us. We could get information on the accurate picture
4 of those facilities and render an independent judgment.
5 That is exactly what we did. I think the
6 process worked as well as any process I've seen in 13
7 years in Washington, D.C. When there was a problem, it
8 was rectified. When there was a lack of information, we
9 got it. And we did it in a timely fashion.
10 Q. Is it your testimony, Mr. Chairman, that the GAO
11 reviewed the information and data supplied by the Navy and
12 was able to reach an opinion as to its accuracy?
13 A. No. The GAO report -- let me answer it this
14 way. The GAO report speaks for itself.
15 Q. A very good answer.
16 A. Thank you. I'm learning.
17 Q. And at page 3-2, you concluded, however, looking
18 at the report, or your commission concluded, however, GAO
19 concluded that the Navy did not offer enough documentation
20 to prove whether or not its process followed the force
21 structure and the selection criteria, preventing GAO from
22 evaluating specific Navy recommendations.

1 criticized or accepted the validity of the data provided
2 by the Navy, that may have had some effect on the
3 commissioners in making their decisions. Isn't that
4 correct?
5 MR. ANDERSON: I object to the implication that
6 the GAO did not do its role.
7 MR. KAUFFMAN: Oh, come on now. You know it
8 didn't do its role.
9 MR. ANDERSON: Save your arguments for the
10 court.
11 MR. KAUFFMAN: You save your arguments for the
12 court.
13 MR. ANDERSON: I am. I'm objecting to questions
14 that I think are unfair.
15 THE WITNESS: I think I agree that the GAO did
16 their job.
17 BY MR. KAUFFMAN:
18 Q. I don't expect you to disagree with your
19 counsel.
20 A. No, no. I mean, I think he's agreeing with me,
21 because that's what I said many times. GAO did their
22 role, and I think did it very well.

1 And to answer your question, the answer is no.
2 I hope I can remember the question. And the reason is
3 that, when there are errors in data that we discovered, we
4 rectified it. We changed it.
5 We made sure that when we rendered a decision,
6 it was based upon the corroborated and validated data.
7 And it is not unusual, in view of the hundreds of
8 thousands of pieces of information, that some are going to
9 be inaccurate by technical, clerical error, error in
10 transmission, or other types of errors.
11 So, the openness of the process guaranteed, to
12 the extent humanly possible, that the information, the
13 data, the statistics of all of these facilities, all of
14 these Navy facilities as well as the other services, was
15 as accurate as we possibly could.
16 The fact that there were inaccuracies in the
17 beginning is irrelevant. It shows you people make
18 mistakes. The purpose of all of this was, when a final
19 decision was rendered by the Commission on June 30th, that
20 decision was based on data that had been scrubbed, and was
21 as accurate as humanly possible. And so, even if GAO had
22 found substantial error or incorrectness in data, it would

1 only indicate that we would then make it correct, and base
2 our decision on the correct data.
3 BY MR. KAUFFMAN:
4 Q. This data that you said you had by July 1st had
5 the same defects to it that the 1988 statute had. A lot
6 of it was acquired in secret, not in view of the public,
7 and not being given the opportunity to be scrubbed by the
8 public.
9 A. I disagree entirely.
10 Q. The record will speak for itself.
11 A. This was an extraordinarily open process. I
12 spent 13 years in Congress -- you made a statement; I'm
13 going to make a statement.
14 Q. The record will speak for itself -- when you got
15 that information.
16 A. You made a self-serving, gratuitous statement;
17 let me, unless you want to cut me off. You want to cut me
18 off?
19 Q. I would never dare to have the temerity to cut
20 you off.
21 A. I just honestly believe that this Commission
22 went far beyond the statutory mandates with regard to

1 openness and accessibility, that it was an exhausting
2 effort by seven individuals that literally were available
3 for congressional telephone calls, for arguments on the
4 telephone, meetings in the hallway in all areas of
5 Washington, D.C., day in and day out, day after day, night
6 after night.
7 The record remained open, and there was not one
8 shred of evidence that this Commission hid from a member
9 of Congress, and unless you were so exhausted that you
10 couldn't talk to somebody, it was a rare occasion that a
11 telephone call wasn't answered when it came from an
12 elected official or a community or by individual
13 commissioners, and certainly the staff itself.
14 Q. Now, would you look at Courter 2, please?
15 A. Thank you, very much.
16 Q. Courter 2. The second page of Courter 2, about
17 a quarter of the way down, the sentence beginning,
18 "Congress felt that the GAO should be part of this
19 process, and they were." This is you speaking, by the
20 way. "Congress felt that the GAO should be part of this
21 process, and they were."
22 Do you want to read up to that point?

1 A. I know what this is. This is the Monday
2 interview.
3 Q. "The last time the Government Accounting Office
4 didn't become involved until all the recommendations were
5 made and they first saw the light of day, and GAO had some
6 criticism with regard to the validity of some data, which
7 may have made some changes in the minds of the
8 commissioners.
9 "This time, GAO was involved in the very early
10 stages of the process, reviewing the way the Pentagon went
11 about creating the selection criteria, and reviewed their
12 methodology, and we had, during our 2-1/2 difficult months
13 here in Washington as a commission. The GAO was pleased,
14 and we were happy to have them working with us, hand in
15 glove."
16 Now, your own book says the GAO did not evaluate
17 the Navy's methodology for shipyards. Right?
18 A. Yes.
19 Q. So what you said in this press release wasn't
20 accurate.
21 A. No. I think what I said in that press release
22 was generally accurate. Obviously, it was a 2-hour press

1 conference that I gave without the benefit of notes,
2 standing in front of about 75 cameras. When I indicated
3 -- what I tried to express in that press conference was
4 the fact that this process was totally different than the
5 process in 1988, or 1989; that data was examined by
6 competing individuals; that people who had dissenting and
7 different views had an opportunity to testify; that
8 communities and experts that were chosen by those
9 communities had an opportunity to present their case
10 before the Commission, in public, on the record, in
11 private, and off the record as well, by telephone
12 conversations and letters; that the GAO was part of this
13 process. And clearly when I was talking, what I had in
14 mind, as well, was the GAO personnel that were working in
15 our office.
16 You are technically correct. When they were
17 assigned to us, they were working for us, but when an
18 individual works for us, that doesn't mean that they don't
19 do good work, they don't do accurate work, and that
20 doesn't mean that they would be doing anything different,
21 than they would be doing if they were in the GAO building.
22 It is my contention that those people that were

1 assigned to us by GAO would have done the same type of
2 work had they been in the GAO office, that were satisfied,
3 after we went through this process and situation with the
4 Navy, with the accuracy of the information. They were
5 satisfied with our recommendations, and they were
6 satisfied with the fact that we rendered an independent
7 judgment that passed the test.
8 We concluded fully as a commission unanimously,
9 and I think those individuals that worked for us, although
10 loaned by GAO, would agree that the Navy, when it came to
11 Philadelphia, did not substantially deviate from the
12 selection criteria, and we could track it to make sure
13 that the selection criteria was applied.
14 Q. Are you testifying that the GAO people who
15 worked for your Commission, temporarily assigned from the
16 GAO to your Commission, examined the Philadelphia Naval
17 Shipyard, or had anything to do with the Philadelphia
18 Naval Shipyard?
19 A. They had -- they worked with Alex Yellin in the
20 Office of Review and Analysis.
21 Q. On the R&D labs, right?
22 A. Excuse me.

1 The Philadelphia delegation felt they had made a strong
2 case for substantial deviation, in that the Navy did not
3 subject all eight shipyards to the eight criteria, singled
4 out Philadelphia. How, if at all, did this play in the
5 decision with regard to Philadelphia, given the Navy's
6 various actions, during the process?"
7 And you said that, "We have some nervous
8 moments, and again, not because I felt their conclusions
9 were wrong or that the data was wrong. It was a fact we
10 couldn't really determine how they arrived, necessarily,
11 at the conclusions. There was a lack of record."
12 Now, how would you have any basis for feeling
13 that their conclusions were right or wrong? You didn't
14 have any basis, to decide that, did you?
15 A. I think that what I said there speaks for
16 itself. It's eminently clear, even today.
17 Q. So you're satisfied to rest on that?
18 A. I think it is a very good statement. It really
19 was. I think it explains --
20 Q. Well, whether it's good or bad, you rest on it?
21 A. May I say something? I think it explains,
22 perhaps even more clearly than I mentioned today that the

1 problem with the Navy was a problem of record. And once
2 the record was revealed to us, we were satisfied with the
3 process and satisfied with the accuracy of the
4 information. And that information which we discovered was
5 incorrect, just like the other services, we made sure we
6 plugged in the correct information and rendered a decision
7 on that correct information.
8 Q. So you went on to say, "What we had to do, of
9 course, was to reconvene the Base Closing Commission, the
10 Base Structure Committee, the BSC of the Navy, have our
11 staff talk to them, create a walkway between their
12 criteria and the one in the law, and it took more time."
13 What do you mean creating a walkway between
14 their criteria and the one in the law?
15 A. What I've been saying for the last 3 hours is
16 what I meant by that. I hoped that you would understand
17 it.
18 What I meant was the fact that when the VCNO
19 study was done and analyzed on the various shipyard and
20 naval facilities, they did not have the benefit of the
21 enumerated eight final selection criteria. They used,
22 basically, other criteria. But what we simply had to do,

1 was to translate their criteria into new criteria to make
2 sure it satisfied the law, and it did. That is the
3 walkway.
4 Q. But the law set for the criteria very clearly.
5 A. That is correct.
6 Q. And the Navy didn't follow it.
7 A. Yes, it did. There was not record.
8 Q. I just thought you said you had to create a
9 walkway, between what they did and what the law required.
10 A. That was from the VCNO study, which was done
11 before this legislation was completed, and then the BSC
12 applied this final selection criteria, using data that was
13 in slightly different language.
14 Q. And subjectively. They didn't --
15 A. That is your opinion, not mine. We did not do
16 anything subjectively. We based --
17 Q. I said the Navy's.
18 A. Nor would I conclude that the Navy did. We
19 base, certainly, our decisions on the facts, and we fully
20 didn't have the facts. We had plenty of facts, but not
21 enough, I suppose.
22 MR. KAUFFMAN: Would you please mark Exhibit

1 BY MR. KAUFFMAN:

2 Q. You don't deny that these came from the files of

3 the Base Closure Commission?

4 MR. ANDERSON: I do not deny that.

5 MR. KAUFFMAN: All right. Then it's the minutes

6 of the meetings that the chairman referred to before.

7 MR. ANDERSON: That's how they have been

8 identified.

9 BY MR. KAUFFMAN:

10 Q. As you read them --

11 A. What was your question?

12 Q. -- you knew that the Navy used subjective

13 reasoning in the process.

14 A. It is neither our nor, in my opinion, the Navy's

15 conclusions were subjective, because subjective connotes

16 being arbitrary and they were hardly arbitrary. The Navy

17 looked closely at the type of excess capacity that they

18 had when it came to ship repair, surface life extension

19 programs, and shipbuilding, recognized the importance of

20 keeping, in the inventory, those shipyards that were

21 nuclear capable, recognized the fact that between 1991 and

22 '95, the number of workers in public shipyards would

1 probably go down from 80,000 to 50,000, clearly indicating
2 that there was a need, for the purposes of efficiency, to
3 close a base. All the evidence pointed to Philadelphia.
4 That's not what I would call subjective. Mr. Nemfakos
5 refers to that. I would say that's analysis.
6 Q. Mr. Chairman, the statement is in here, which I
7 just read, "We don't understand your process and, thus,
8 can't defend it."
9 Why would the Commission be interested in
10 defending the Navy's process?
11 MR. ANDERSON: I object. You're asking him what
12 somebody else meant. I don't know how he could possibly
13 know that.
14 BY MR. KAUFFMAN:
15 Q. When you read it, didn't you ask your employee
16 what he meant when he told the Navy they were going to
17 defend the Navy's process?
18 A. Well, let me answer in the following way.
19 I understand what you are saying, and there is a
20 clear answer. In order for us, being the Commission, to
21 be able to justify the independent nature and the
22 correctness of our decision in applying the statute, we

1 would have to be eventually satisfied with the correctness
2 of the information supplied and the correctness of the
3 process used. It's not that we are defending their work.
4 We wanted to make sure we could defend our own.
5 Q. When you learned the Navy said, and I quote, we
6 avoided quantifiable things, didn't that raise red flags
7 to you, set off sirens, tell you there was no way of
8 checking what the Navy did?
9 A. I'm sure what is meant by that statement. All I
10 can say is that the information provided to us after we
11 went through this particular process led us to conclude
12 that if the data was reasonably correct that we were
13 satisfied that the criteria was applied. And therefore,
14 the decision was a correct one. And that there was no
15 substantial deviation.
16 We continued to examined Philadelphia
17 extraordinarily closely. We bounced off all of our
18 information. We talked about it publicly on CNN and
19 C-SPAN. We continued to get responses from the community
20 and members of Congress when they thought that information
21 we received was not accurate or that we talked about was
22 not accurate.

1 We continued to scrub numbers such that when we
2 made a decision it was based upon the most accurate
3 information we possibly could. It was not subjective at
4 all, but was based on data and the sane and sensible and
5 reasonable application of the selection criteria.
6 Q. From these minutes it becomes apparent that your
7 commission didn't have any more detailed information than
8 did the GAO and that you couldn't verify the data any more
9 definitely than did the GAO because you were told it's
10 subjective, we avoided quantifiable things. Is that
11 correct?
12 MR. ANDERSON: I object to your characterization
13 in that question.
14 THE WITNESS: It's your opinion. It's mine at
15 all.
16 BY MR. KAUFFMAN:
17 Q. Show me in here where the data appears.
18 A. Nor, I might add, I don't think it would be the
19 opinion of any other commissioners as well.
20 Q. Very well. I would like you to point out to me
21 where the data is.
22 A. Let me just say that our data that we relied on,

1 the information, the arguments were received from all
2 sorts of sources. This is a summary of a meeting that I
3 never attended. And so I'm not interested in justifying
4 our decision based upon this scant summary.
5 What we based our decision on is the files of
6 information that are probably yards long that is in our
7 office, on all testimony, on base visits, on arguments of
8 the Senators and the members of Congress that were
9 affected, the testimony, and our public hearings, and all
10 the data that was supplied not only by the Navy, but by
11 outside experts that took a contrary point of view as
12 well.
13 So our decision was not based on this at all.
14 As a matter of fact, we didn't rely on this document at
15 all to make our decisions. So it's irrelevant.
16 Q. Look at the next to the last page of Courter
17 No. 8, would you please?
18 A. The next to the last page?
19 Q. Next to the last.
20 A. What page number does that carry?
21 Q. It doesn't carry a page number, that's why I say
22 next to the last.

1 Q. Paragraph 5.

2 Navy emphasized the subjective nature of

3 narratives and stressed that the information it provides

4 the commission is an addendum, not a replacement for the

5 report it submitted to the Secretary of Defense in April

6 1991.

7 Do you still say what they did was not

8 subjective?

9 A. This says that the narrative, the Navy

10 emphasized the subjective nature of the narrative.

11 Q. Well, the narrative was their explanation.

12 A. We did not base our conclusion to close

13 Philadelphia on subjective information at all. As a

14 matter of fact, we based it on hard facts, base visits,

15 and open discussion in public view.

16 Q. Public discussion? What public discussion

17 occurred after May 20?

18 A. There was no commissioner here. There was no

19 commissioner at this meeting. What public discussion

20 occurred after May 20th?

21 Q. May 29th on the information contained in this

22 document.

1 A. On Philadelphia? We discussed Philadelphia
2 probably at every one of the hearings after that and
3 certainly spent a long time discussing it. The day we
4 voted and probably during the week before we voted we
5 discussed it.
6 Q. When were these minutes distributed to the
7 public?
8 A. I don't know. I don't know if they ever were
9 because it had nothing to do with the commission meeting.
10 No commissioner was ever at this meeting.
11 Does this reveal that this was a public meeting
12 or this was a commissioner's meeting?
13 Q. So you're saying they were kept secret?
14 A. I didn't say that.
15 Q. Were they ever distributed to anybody?
16 A. I don't know. My point here is that the
17 commission complied, went beyond the letter of the law
18 with respect to the public nature of our process. We
19 disclosed everything we had. Every time three or more
20 commissioners met and discussed the substance of anything,
21 we did so in full public view after publishing the notice
22 of the meeting, the time and the location in the Federal

1 Register.

2 Therefore, that I guess is the reason that so

3 many of our meetings were so well attended. The only time

4 we discussed amongst commissioners these issues in public

5 after full public disclosure in the Federal Register, and

6 most times had quite a press corps following.

7 So it was amply reported, which also I might add

8 led to members of Congress following the hearings closely.

9 And when they heard data or information that they

10 disagreed with they would quickly come back with their

11 evidence that we should change our information. Sometimes

12 if it checked out, we did, which further led to, I think,

13 the correctness of our ultimate decisions.

14 MR. KAUFFMAN: Let's mark this as Courter

15 Exhibit No. 9.

16 (The document referred to was

17 marked Courter Exhibit No. 9

18 for identification.)

19 BY MR. KAUFFMAN:

20 Q. Mr. Courter, you issued a press release on May

21 22, 1991 in which you made the statement, last week the

22 General Accounting Office released a report on base

1 closure and realignment. This document made it clear that
2 the methodology designed by the Navy was sound.
3 That is an absolute misstatement, isn't it?
4 A. I don't know. Let me see. Last week the
5 General Accounting Office released a report on base
6 closure and realignment. This document made it clear that
7 the methodology designed by the Navy was sound.
8 I would say on reflection that that is not
9 accurate. That statement is not accurate for the reasons
10 that I mentioned earlier today that that opinion was not
11 made by GAO because of a lack of a record. And it was our
12 job to make sure that amplified that record so we could
13 base our conclusions on a process that was fair and
14 complied with the statute, which we ultimately did.
15 Q. Well, you go to say, on Monday of this week
16 members of the commission staff met for 4-1/2 hours with
17 the Navy's base closure group in an effort to determine
18 how their conclusions were reached. During this meeting
19 we learned that the Navy group employed a great deal of
20 subjective judgement in drawing up their list of
21 recommendations for closure and realignment.
22 Did you say that? Or are you going to deny it?

1 A. I resent the tone of that question, very
2 frankly.
3 No, I don't deny that this was a press statement
4 that was delivered by our office to the public. I also
5 know that I don't read those things. I never do. They're
6 prepared by others.
7 The purpose of this was to, clearly, was to get
8 the Navy's attention. And we did. It worked out very
9 well. We, at that particular time, used as strong a
10 language that I felt I could reasonably justify. Perhaps
11 it was too strong. But I wanted to get the Navy's
12 attention to make sure that they cooperated fully with our
13 commission.
14 So in view of and in light of their subsequent
15 cooperation and the fact that they were very forthcoming
16 subsequent to this in giving us data and information,
17 explaining their process, this particular press statement
18 or press conference really, it was a press conference,
19 served its purpose eminently well.
20 It was a tactic by me in order to make sure that
21 our commission would eventually render a decision based on
22 proper information.

1 press statement. And the purpose of this press statement,
2 as I mentioned before, was to shock the Navy into
3 cooperating so we could validate data and process. And
4 they eventually did do that. It served its purpose.
5 BY MR. KAUFFMAN:
6 Q. After this 4-1/2 hour meeting on May 20, 1991
7 when nobody on the commission could yet say whether the
8 Navy's judgements were fairly and consistently applied,
9 right?
10 A. Well, not at the end of the meeting. It took a
11 period of time. Alex Yellin can explain in much more
12 detail since he was there. And I'm basing my statement on
13 information that I received from him and others that were
14 at that meeting.
15 We had -- it was a process. We had various
16 conversations with Navy personnel on this matter. And
17 over a period of time, the time being probably about
18 4 days or 5 days, then became satisfied that we could
19 understand the way they came up with their
20 recommendations.
21 It didn't happen after the end of 4-1/2 hours.
22 We went back at them, but we eventually were eminently

1 satisfied that they had, although in a different way,
2 complied with the statutory requirements. And we were
3 dealing with data that was accurate or reasonably
4 accurate. And that which wasn't we checked out and
5 changed later.
6 Q. What data? Identify the data.
7 A. It was on berthing capacity, depth of dry docks,
8 expense of moving people, type of ship repair and
9 extension work that were designed to do, had everything to
10 do with living accommodations at the various ship yards,
11 labor rates, efficiency rates, I can go on and on. That's
12 data. I mean, it's just --
13 Q. What specific documents do you have?
14 A. We will give you all of those. I'm sure we
15 have, we have reams of documents that have lots of data.
16 Q. I would ask you to identify for us, you as the
17 chairman of this commission, identify for us the documents
18 upon which you relied which you obtained subsequent to
19 May 22, 1991 in order to satisfy yourself whether the Navy
20 process was accurate. What documents? Identify them for
21 us.
22 A. You're not understanding what we're saying here.

1 What we're saying is that I was satisfied after talking to
2 staff members, particularly Alex Yellin, that the "cross
3 walk" gave some sort of rationale to the Navy process.
4 Q. Even if it was subjective?
5 A. Now you can play your games if you want to and
6 your question --
7 Q. This is not a game. This is 47,000 jobs.
8 A. I understand. But you're playing games with me
9 and I don't appreciate that and I'm trying to --
10 Q. The feeling is mutual.
11 A. -- I'm trying to be as accurate as I possibly
12 can to your questions. Then you talk in terms of what
13 data, what raw data, what facts, what information that I,
14 as chairman of this commission, base my decision on. And
15 it's everything. It's everything we have in my office.
16 It's every conversation I had with Senator Arlen Specter
17 and all the other members of Congress representing that
18 area, my visit to the base, my hearing testimony there, my
19 listening to Navy officials testify, my conversations with
20 elected representatives, special interest groups that
21 represented, and I think very well, the Philadelphia
22 community information that was supplied to me by my own

1 office, the Office of Review and Analysis, conversations
2 with the other commissioners in public. That is what I
3 made my decision on.
4 And if you want to get a transcript of all of
5 our public hearings, you can get it as well as I. If you
6 want copies of all of our data, you can get it as well as
7 I. If you want to get a video of the testimony we
8 received in Philadelphia, you can get is as well as I.
9 Q. I want to refer you now to what your commission
10 said. We have -- and this is from Courter No. 9 -- we
11 have repeatedly sought clarification from senior Navy
12 representatives. I have publicly asked for minutes,
13 notes, and any documentation.
14 I don't know who the I is. Do you know who the
15 I is?
16 A. I suppose that's me.
17 Q. I have publicly asked for minutes, notes, and
18 any documentation that would give us an idea of how the
19 service came up with its recommendations. What we have
20 received is inadequate. The GAO and the commission staff
21 have pointed to an alarming lack of information about the
22 Navy's decision-making process. Therefore, we are

1 demanding from the Navy a detailed explanation of the
2 process used to justify its recommendations for closure
3 and realignment.
4 When and if -- what did you get? Did you get
5 anything from the Navy in response to that demand?
6 A. Yes, we got eventually.
7 Q. What did you get?
8 A. Eventually what we got was a full explanation of
9 how they arrived at their decision and the process that
10 they used and an explanation that would reveal that the
11 final selection criteria were, in fact, used in making
12 that decision.
13 Q. Who did you get that from?
14 A. We got it from the Navy.
15 Q. Who?
16 A. The people that were here at, during the
17 meetings. The people that explained their process.
18 That's who.
19 Q. Well, the people at these meetings said that the
20 Navy emphasized this is the last meeting, the very last
21 meeting which was on May 29th and the Navy is still
22 emphasizing on the last page of Courter No. 8, still

1 emphasizing the subjective nature of the narratives and
2 stressed that the information it provides the commission
3 is an addendum.
4 A. Well, that what you are reading is not a fair
5 summary of the information that we eventually got from the
6 Navy.
7 Q. This is your minutes, it's not mine.
8 A. I understand. But I don't know who wrote that.
9 But I can tell you --
10 Q. Neither do I.
11 A. -- but I can tell you when we finally met for
12 deliberations, even though some people wanted to give
13 testimony during that day, when we finally met for
14 deliberations we had accurate information and we were very
15 comfortable with the Navy process.
16 Q. I'm asking you to identify --
17 A. And this particular press statement served
18 strategic or tactically very, very well because of this.
19 And obviously, after the press conference there was a lot
20 of people that went to the Secretary of the Navy and the
21 Secretary of Defense and said, unless you start
22 cooperating fully, unless you start revealing and

1 explaining how you arrived at these conclusions, you're
2 going to have a problem.
3 And so they did, they cooperated fully. We were
4 happy with the information and we, with some exceptions,
5 obviously Whidby and Orlando, concluded their decisions
6 were appropriate and justified on the record using the
7 data they had and that was accurate.
8 I mean, you keep asking for information and I
9 keep telling you --
10 Q. I would like you to tell me what documents
11 identified --
12 A. -- and I don't know how many times, Mr.
13 Kauffman, I don't know how many times I have to explain
14 that our record was not one hearing. Our record was not
15 one meeting. Our record was not one question or one phone
16 call from Arlen Specter.
17 Our record was a composite of all of those
18 things, letters, phone calls, meetings, base visits,
19 public hearings in the field and in Washington, D.C.,
20 staff analysis, staff corroboration of data, staff
21 testimony. That was the record upon which we made and
22 rendered an independent judgement.

1 Q. So as we sit here today, you cannot identify for
2 me any documentation or any specific individuals who give
3 detailed explanation of the process?
4 A. I went through a long explanation of all of
5 that. And I'm sure in your office you have most of it.
6 If you want the videos you can call up CNN.
7 Q. No, I would like you to identify, as Chairman of
8 the commission, what you received subsequent to May 22nd.
9 A. We will give you everything we received
10 subsequent to that date.
11 Q. What you received that satisfied your demand
12 from the Navy for a detailed explanation of the process
13 used to justify its recommendation for closure and
14 realignment. That is what I would like you to identify
15 for us so that we can have that for the record.
16 A. Alex Yellin will testify, I'm sure, and you will
17 be happy to ask him whatever questions. All I can report
18 to you is some of that information. I'm sure all of it
19 you have.
20 Q. Well, I want to know what you used. You say
21 that you got information satisfying you that the process
22 was fair. As of May 22nd, you did not have that

1 information. I want to know what you got between May 22nd
2 --
3 A. As of May 22nd, I did not fully understand the
4 process, which is a lot different than data. And you
5 confuse that all the time. I wanted to make sure that I
6 could get the key members of the BSC in our office so they
7 could be interviewed and questions could be asked, so they
8 could explain the process.
9 And let me finish. How they made their
10 conclusions and whether those conclusions were based upon
11 the eight final criteria. So that which they finally did
12 after we got their attention, they explained the process.
13 It is not that they gave us new, fresh data. I'm not
14 going to give you information and statistics on
15 Philadelphia that I got on June 3rd, that I didn't have on
16 May 22nd.
17 You simply don't understand. What we were
18 looking for was an explanation of the application of the
19 data, an explanation of the language. That is what they
20 supplied us. That is what they gave us.
21 We had to make sure that the Navy followed the
22 statute. We weren't convinced -- we didn't know -- we

1 couldn't demonstrate, although my understanding of the
2 Navy is that they would follow the statutes certainly. We
3 couldn't honestly demonstrate publicly that they did. So
4 what we got was an explanation, not new data.
5 We continued, obviously, to get data from all
6 sources between May 22nd and June 28th. You can look at a
7 letter that I wrote to Arlen Specter as late as June 24th
8 or 5th, asking for additional information. And that would
9 be part of the public record. And whatever he sent us was
10 in fact part of our record and used in our deliberations
11 to render the final decision.
12 So you're not going to get data. We had to
13 understand how they went about their business and what
14 process they used. And I hope you understand that now. I
15 know it is difficult to understand because it is a very
16 arcane, narrow, difficult area. But I'm sure I've made
17 myself abundantly clear, hopefully.
18 Q. The second page of Courter 9 is entitled
19 "Proposed Defense Base Closure and Realignment Commission
20 Course of Action on Department of Navy Base Closure
21 Process."
22 Number one says, "Due to gaps of information in

1 as I understand it, the VCNO study did not recommend that
2 the Philadelphia Naval Shipyard be closed.
3 A. If we assume that it did not, and then we all
4 know that the Navy then eventually, in their judgment,
5 felt it should be closed. Do you want to characterize
6 that? You can characterize it any way. I mean, I would
7 say --
8 Q. If you asked them how they got from VCNO to what
9 they were recommending to you, and I want to see the
10 information which they supplied in response to the demands
11 contained in Courter 9.
12 A. Let me answer this the best I can here. And I'm
13 sorry to interrupt my own counsel, but otherwise I will
14 forget what I wanted to say. That was honestly one of the
15 concerns of the BSC. That they felt that the VCNO study
16 being done probably by people whose job it was to keep the
17 shipyards in good shape and open was somewhat biased in
18 favor of no closures.
19 I think that is what the Navy said, and you will
20 find that, for example. And it is not unusual. For
21 example, members of Congress are biased in favor of larger
22 staffs on their subcommittees. People that are assigned

1 to be running bases don't want to close those bases. Just
2 like people in the Air Force who were assigned to the air
3 wing want bombers and not missiles. That's all part of
4 it.
5 And what happened here is the Navy, at a higher
6 level, at the very highest level, felt that there was an
7 inherent bias in the VCNO study not to close, not to
8 create these efficiencies. Which is not unusual. You see
9 that in Congress. You see it in business. You see it in
10 the Air Force. You see it all over.
11 And that may lead to the reason why the VCNO
12 study said Philly should not be closed. I don't think
13 they recommended closing any shipyards. Did they? I
14 think it was zero, which is quite remarkable.
15 Q. Your proposal here, page 3 or Courter 9, says
16 despite general explanations of the process, the
17 commission is still unable to determine if the subjective
18 judgment of the Navy's group was applied fairly and
19 consistently to all bases in all categories in accordance
20 with the force structure plan and the Department of
21 Defense criteria mandated by law.
22 I am asking you to -- what I am asking you to

1 identify is what you learned in public, what you notified
2 the public you were able to learn subsequent to May 22nd,
3 1991, which permitted you to reach the conclusions which
4 you reached relating to the Philadelphia Naval Shipyard?
5 A. We told the public and everybody knew that had
6 an interest that the Navy was finally cooperating with us,
7 and we could make a judgment that they had followed the
8 final selection criteria.
9 Q. What did the Navy tell you that permitted you to
10 do that?
11 A. It is a very complex story, and Alex Yellin will
12 lay it out in very meticulous detail.
13 Q. You cannot tell me?
14 A. No, I can't.
15 Q. You cannot tell me any of it? Tell me what you
16 can tell me as chairman of the commission.
17 A. Well, I would have to get all of the notes.
18 Q. Just tell me what you know.
19 A. No. You're not going to lead me into that at
20 all.
21 Q. Why not?
22 A. Because in front of me I do not have the VCNO

1 regard to our obligations. That would be our role.

2 I mean, we're not an enforcement mechanism. I

3 didn't ever conceive of this commission to look at the GAO

4 nad to help them out; look at the Pentagon and help them

5 out. We had a big enough challenge to comply with the

6 statute. And we would have discussed it publicly and

7 probably made a determination to what to do.

8 But we couldn't have just given up our -- just

9 walked out of the room, no.

10 Q. You didn't think that the input, independent

11 input by the GAO was a critical part of your --

12 A. It was very important.

13 Q. -- your fulfilling your obligations under the

14 statute?

15 A. Well, it depends on what you mean by critical.

16 Is -- I thought the GAO involvement by way of analyzing

17 the process of the three services was very helpful. It

18 led, obviously, to their confirmation of the correctness

19 of that process when it came to two services. It led to

20 open and public criticism when it came to the third

21 service. It led to our immediate remediation of this

22 problem with respect to the third service.

1 So they were very helpful in that regard, and by
2 their testimony and by their public report, which was
3 published on May 15.
4 For example, just so you understand exactly what
5 I'm thinking about, we received inquiry from a couple
6 of -- or one or more members of Congress saying, you know,
7 hold hearings and drag in some of the Pentagon officials
8 and make them testify before you on some tangential
9 matter. Because those members of Congress felt that
10 individual -- this had to do with the Air Force, I
11 believe -- were not honestly forthcoming when it came to
12 some data. And our response was, it was informal, our
13 response was that if you think the Pentagon officials are
14 not performing their responsibility, you have an
15 investigative branch inside the Congress, the
16 Administration has an investigative branch, and the
17 services all have investigative branches.
18 And therefore, go to them. But we basically
19 couldn't be side-tracked from our obligation to follow the
20 statute carefully, and make independent decisions by
21 enforcing and doing the work for other Government agencies
22 and departments.

1 Q. I don't mean to belabor this point, and I'll
2 quit after this. But you have recognized that to ensure
3 the GAO's role during the 1991 Commission analysis,
4 Congress gave GAO a clear role in the 1991 process,
5 right?
6 A. Yes.
7 Q. And the process role was to do this report no
8 later than May 15, containing a detailed analysis of the
9 Secretary's recommendation and selection process.
10 The purpose of this, as I think you previously
11 testified, was to cure one of the problems with the prior
12 process, to bring in the independent professional expert,
13 GAO, to analyze the data -- to analyze the data and to
14 analyze the process and see if the process had been
15 complied with and to help in other ways, if requested by
16 the Commission, right?
17 A. Well, I would rather put it in my words, if I
18 may. And their responsibility was exactly what was said
19 on page 3-1, chapter 3 of our final report to assist the
20 commission in its review of the Secretary of Defense's
21 recommendation, which they did; transmit an independent
22 report, which they did; to the Congress, which they did;

1 and the Commission, which they did; containing their
2 analysis of DOD's proposals and process, which --
3 Q. Which they did not. They said they couldn't.
4 A. Yes, but that was their report. Their report
5 said, because of a lack of documentation we can't comment
6 ont he correctness of these decisions when it comes to
7 Philadelphia or the other naval facilities. That, in
8 itself, was helpful, very helpful.
9 Q. Now, my hypothetical is --
10 A. Crucial, and not crucial. Because I think we
11 would have found the flaw and rectified it ourselves. But
12 it was very helpful.
13 Q. Now, the Commission's report -- hypothetically
14 now -- says, instead of saying as you just said, because
15 of lack of the documentation, the GAO cannot complete an
16 analysis of the Department of Defense's proposals and
17 processes. If they say the Navy refused to give us
18 anything, therefore, we cannot complete our report
19 containing our analysis of the Department of Defense's
20 proposals and processes. They just cut us out.
21 Do you believe this process could have gone
22 forward?

1 referring to before of those meetings that revealed who,
2 on the Commission, was there. And what other
3 representatives were there that represented the Navy.
4 I think -- I believe all the names were probably
5 taken down during those meetings.
6 Q. They do have names there. I wasn't aware that
7 any of those were not members of the Base Structure
8 Committee.
9 A. i don't know who was and who wasn't either, to
10 tell you the truth.
11 Q. So it wouldn't serve any purpose to go through
12 these names and ask you which of them --
13 A. No, you wouldn't get anything from me on that.
14 It was represented to me that we had the people that we
15 wanted there that were on the Base Structure Committee.
16 And I just assumed that probably the Navy would have other
17 people there as well.
18 Q. Well, you say here, "The Commission" -- and that
19 is at page 4-2 -- "the Commission with GAO's help,
20 obtained and analyzed several-hundred items of data, on
21 some 29 naval installations across the country."
22 What is that talking about?

1 A. Exactly what it says -- that our staff had GAO
2 help with regard to -- and maybe what they mean by that,
3 I'm not sure -- when they refer to GAO, it might be your
4 dispute and my dispute as to who these people were. They
5 were clearly working for, paid for by GAO. But they were
6 in our office.
7 You take the opinion that they severed all
8 connection with GAO because they were working in our
9 office. I don't necessarily take that at all. They were
10 working in my mind because we met very early in the
11 process -- long before the Cheney list was out -- and told
12 him that if he would pleas cooperate by assigning people
13 from his office to work in ours, so we could have their
14 input. And it was based upon that conversation that these
15 GAO assignees were detailed to our Commission.
16 Q. Were they supervised and instructed by you or by
17 the GAO?
18 A. I never talked to them.
19 Q. Were they supervised and instructed by you or by
20 your staff or by the GAO?
21 A. Well, they were in our office, and they reported
22 to work there every day.

1 long day. I just don't recall his name.

2 Q. So the Congress wanted the GAO to participate,

3 you wanted the GAO to participate. The GAO wanted to

4 participate -- everyone but the Navy wanted the GAO to

5 participate.

6 A. Well, that was irrelevant as far as we were

7 concerned. We wanted the GAO there, and they were there.

8 You may disagree, but I have a right to answer the

9 question without interruption.

10 We were very pleased that the GAO would detail

11 people over to our office. And they worked very closely

12 with our Office of Review and Analysis. And they were

13 there the whole time.

14 Q. You don't know, personally, whether the GAO

15 employees or former employees conducted any analysis of

16 the Navy's procedures and methodology for its shipyards,

17 do you?

18 A. They were an integral part of our technical team

19 that did review an analysis of the Navy information.

20 Q. Are you testifying from your own knowledge that

21 the GAO personnel, who were assigned by the GAO to your

22 Commission participated in an analysis of the Navy's

1 procedures and methodology for shipyards?

2 A. You totally warped what I was saying.

3 Q. I'm asking you.

4 A. You misinterpret what I'm saying.

5 Q. Well, answer my question.

6 A. My answer is my answer. It is not your

7 characterization of that answer. And you know full

8 well --

9 Q. Do you know whether --

10 A. You know full well what I said.

11 MR. ANDERSON: Let him answer.

12 BY MR. KAUFFMAN:

13 Q. Please listen to my question.

14 A. I will do it one more time. Shoot, go ahead.

15 Q. Do you know, from your own personal knowledge,

16 whether any of the personnel assigned by the GAO to your

17 Commission participated in any analysis of the Navy's

18 procedures and methodology for shipyards?

19 A. GAO personnel who were detailed to our office

20 were an integral part of our review and analysis team, and

21 helped with the analysis of the data. They were in our

22 office from, I would imagine, early in the morning until

1 very late as night, and worked as hard as anybody else.
2 And made a significant contribution.
3 Q. So you don't know the answer to my question. Is
4 that right?
5 A. I'm not sure what your question is.
6 Q. Then I'll ask it again.
7 A. You don't have to. Because what your
8 question --
9 Q. This is a very important issue that you've made.
10 I want to be clear on this record what the basis of your
11 testimony is, and what it is. And I want to give you the
12 opportunity to answer it.
13 My question to you is whether you, of your own
14 personal knowledge, know whether any of the personnel from
15 the GAO, assigned by GAO to your Commission, participated
16 in any analysis of the Navy's procedures and methodology
17 for shipyards?
18 A. I will answer the same way I answered before,
19 sir. I will rest on my answer.
20 Q. You just don't know?
21 A. I rest on my answer. My answer was a full and
22 complete one. And the answer is -- if you want me to say

1 it for the third time I would be happy to do it -- is that
2 I asked the very top person in GAO if he would cooperate
3 with our Commission. Because it would add credibility.
4 And they have talented people that were very familiar with
5 the issue of force structure in the Continental United
6 States. I asked that individual, that man, if he would
7 detail to our office people that would work in our office
8 as an integral part of our review and analysis team. The
9 answer was yes. He needed time to select them because
10 they were busy doing other things. He, as well, wanted to
11 cooperate. They had a real interest in creating
12 efficiencies inside the base structure inside the United
13 States, and that they would eventually come up with people
14 and assign them, and detail them to our office.
15 They were assigned, they were detailed. They
16 were assigned by us to work for the office, or the sub-
17 office of Review and Analysis. And it is my understanding
18 they played an integral part in the work of that office.
19 Q. But you have no idea whether they worked on nay
20 shipyard analysis. Is that right?
21 A. I rest on my answer. That's my answer.
22 Q. Who assigned these people to do whatever they

1 because of the reasons that were said. And I say here
2 that the process will be open to everyone, and it
3 was -- eminently so.
4 Q. Prior to the 1990 Base Closure Act, do you know
5 how the Navy ranked the eight naval shipyards on military
6 value?
7 A. Prior to -- when was that?
8 Q. The enactment of the 1990 Base Closure
9 Act.
10 A. No.
11 Q. Now that you know, you say what methodology the
12 Navy used to apply the Department of Defense's eight
13 criteria to all shipyards equally and fairly, would you
14 describe that methodology, please?
15 A. Yeah, what the -- what the Navy did, very
16 briefly -- was to utilize the work as best they could from
17 the VCNO study that, as well, made recommendations with
18 regard to base closures and realignments.
19 The VCNO study was the only one that was
20 completed, it's my understanding, prior to the work of our
21 Commission.
22 In order to comply with the statutory

1 requirements, the Navy selected a committee of elite Navy
2 officials that had expertise in infrastructure, and the
3 Navy facilities, to examine afresh the work of the VCNO,
4 and interview needed Navy officials throughout the United
5 States that had expertise, and the contribution of each
6 one of those Navy facilities.
7 The Base Structure Committee applied and
8 examined the eight selection criteria. They looked at the
9 statute that calls for giving a greater emphasis in weight
10 to the first four dealing with military value. They
11 looked at all the sub-elements, or sub-groups of the types
12 of bases, and categorized those bases, such that you would
13 have on the one hand, Navy, Air, training facilities,
14 naval stations, shipyards, et cetera; applied the first
15 four criteria to those in the various sub-
16 groups -- shipyards being one of those sub-groups; made a
17 determination after examining -- as they were required to
18 do -- the force structure in future years, and made a
19 determination based on all available data, the interviews
20 conducted by the BCS, and the information of the VCNO
21 study as to which -- whether there was excess capacity in
22 any particular category..

1 They determined that there was excess capacity
2 in the shipbuilding category. They examined all of those.
3 They made further analyses; applied color codes to the
4 various yards, shipyards. They showed some of them
5 having -- perhaps one had all green. Most of them had a
6 mix. They met and had free exchange, and differing points
7 of view, which is obviously you are trying to make an
8 important point out of. I would say it shows the openness
9 and candor of the Navy process that they permitted
10 dissenting views. That would be my judgment. I think it
11 helped them make correct decisions in the final analysis.
12 They eliminated, after -- they eliminated some
13 yards because of the fact that they were rated so well.
14 They eliminated others because they were very important
15 for repair of nuclear ships, surface ships -- subs, I
16 would imagine. And they looked very carefully at
17 Philadelphia and concluded that, after applying the eight
18 selection criteria, and after guaranteeing that their base
19 infrastructure, when it came to shipyards, conformed with
20 the force structure, that Philadelphia was the most
21 logical one to be taken off the list. There was a couple,
22 or two, or three, or fours-step process. That's the best

1 I can recall. It's been quite a period of time since I've
2 looked at it carefully.
3 Q. Well, the fact of the matter is that
4 Philadelphia received a rating that was bested only by two
5 of the eight shipyards in the country. Isn't that
6 correct?
7 A. If you -- if all you do --
8 Q. For the first four criteria.
9 A. That statement is only correct if all you do is
10 look at the colors, and not beyond the colors. We, of
11 course, looked far beyond the colors.
12 Q. That's where the subjective test comes in.
13 A. No, we applied a lot of dated information on
14 what the future force structure was going to be, how to
15 meet that, what the repair requirements would be with
16 regard to the various types of surface vessels, what was
17 required by way of nuclear repair versus conventional. We
18 looked at all sorts of information and concluded that
19 there was no substantial deviation -- which is an
20 important test -- substantial deviation that the Navy made
21 when it came to Philadelphia in applying all those
22 criteria.

1 Q. Where is all that information?

2 A. Where's all what information?

3 Q. That you just told us about for the past 3

4 minutes.

5 A. Well, it is -- we can go through this exercise

6 again, if you'd like. It is in the reports that -- it's

7 in the reports that we have in our office.

8 Q. What reports?

9 A. Reports meaning from members of Congress, from

10 the Navy, from interested public officials, from private

11 organizations. I have studies in my office.

12 We -- information was received during our public hearings

13 in Washington, and our public hearings in Philadelphia; .

14 at the base, when I spoke to the commanding officer, when

15 I spoke to other officers there. I remember having

16 lunch -- spending probably 2 hours at lunch going over and

17 over again their arguments with regard to Philadelphia.

18 And so this information obviously is now in my brain. But

19 I got it through various mechanisms, which is the major

20 point I'm trying to make here this afternoon.

21 Only one of those mechanisms of gaining data for

22 this decision was the public hearing process. You are

1 putting a lot of emphasis on it. I would say it was
2 important, but it wasn't the only thing we did. We had
3 public hearings in Washington, we had them in
4 Philadelphia. We kicked the tires in Philadelphia. We
5 had two commissioners go there and visit the facility. We
6 spoke to members of Congress. We spoke to leading public
7 officials. We interviewed and talked to experts that
8 Philadelphia -- the City of Philadelphia -- hired, or
9 whoever payed these people, they were very, very expert in
10 their work. And ad infinitum, all of that information was
11 received, was analyzed, scrubbed. We discussed all of
12 this in public. And we had seven people from different
13 walks of life, from different parts of the country that
14 maybe had biases with regard to different services because
15 they had experiences in different services. And each one
16 of them concluded that the Navy was correct. There was no
17 substantial deviation, and Philadelphia was the one to be
18 closed. And all those discussions were made in public,
19 and the vote was made in public as well.
20 Q. Could you identify the data you have in writing
21 that you just referred to? What part of it is in writing?
22 A. The part -- and I don't want to be facetious,

1 statute. We, as well, had to comply with the statute.
2 Our role was somewhat different than the Navy's.
3 Q. You had to make sure the Navy complied?
4 A. We concluded the Navy did comply, that their
5 decision was rational. It was based upon the merits and
6 also based upon the final selection criteria.
7 Q. On what basis did you decide that the Navy
8 complied?
9 A. On all the information we received. On
10 everything from ship to shine, from stem to stern. On the
11 information that they got, criticized by Members of
12 Congress. We plugged that into the formula.
13 We talked to citizens groups that were, I'm
14 sure, highly -- good volunteers that wrote reports about
15 the importance of Philadelphia to national security and to
16 the area.
17 All of that information was gathered by our
18 staff, looked at by the Commissioners, publicly debated,
19 and we concluded that the Navy made the proper decision
20 based upon all of that evidence.
21 Q. How did you conclude that the Navy reached the
22 property decision of treating Charleston, Mare Island,

1 Pearl Harbor, and Portsmouth, differently than
2 Philadelphia when they received the same color-coded point
3 rating for the first four criteria?
4 A. I'm not sure whether I understand the question
5 precisely, but --
6 MR. ANDERSON: Then don't answer if you don't
7 understand.
8 BY MR. KAUFFMAN:
9 Q. You don't understand the question?
10 MR. ANDERSON: I think there was an assumption
11 in that question that I take is your characterization.
12 BY MR. KAUFFMAN:
13 Q. Well, you know Philadelphia, Charleston, South
14 Carolina, Mare Island, California, Pearl Harbor, Hawaii,
15 and Portsmouth, Maine, all received the same point rating
16 for the first four criteria, right?
17 A. And let me just give you to the best of my
18 recollection today -- it's been a period of time since I
19 rendered a decision, and believe me I haven't spent one
20 minute worrying about this since then --
21 Q. You have or you have not?
22 A. I have not. I've been doing other things,

1 happily, since July 1st.

2 One of the things, obviously, when you deal, for

3 example, with Hawaii -- let's just take Hawaii. We found

4 out that it was very expensive to have a shipyard in

5 Hawaii. There wasn't anybody, even in Philadelphia, that

6 suggested we close the Hawaii shipyard, the naval facility

7 there, because of its strategic location.

8 When it came to some of the facilities on the

9 East Coast we were extraordinarily concerned about the

10 fact that during and until around 1995 we had to have a

11 high capability to repair nuclear-capable surface vessels,

12 and Philadelphia doesn't have that capability.

13 Also, we recognize that there is great

14 inefficiencies in moving ships, for example, from the

15 Pacific to the Atlantic for the purposes of emergency

16 repair, and therefore to a great degree you look at

17 capacity when it comes to naval stations as well as

18 shipyards differently vis-a-vis the two coasts.

19 You have to almost to a degree look at the

20 Pacific as independent from the Atlantic, the West Coast

21 from the East Coast, so it was not totally logical to

22 compare Philadelphia with, for example, a facility in the

1 Northwestern part of the United States because it
2 strategically is not used for the same type of ships, and
3 therefore the East Coast was competing basically with the
4 East Coast.
5 Q. This is not included in the first four criteria
6 considerations, like where it is located?
7 A. Sure, yes.
8 Q. Well, they all got the same -- all these that I
9 just mentioned to you got the same score.
10 A. All of them were treated equally by the Navy.
11 All of them were treated, and we looked at all of them
12 ourselves, and as I mentioned, I don't know how else to
13 say it, other than to say that although it was an
14 unpleasant decision it was clear and unanimous that
15 Philadelphia was the one that had to be eliminated.
16 Q. Well, it is a fact, isn't it, that the Navy gave
17 overall green rating to Mare Island, which just like
18 Philadelphia received two yellow and two green, Norfolk
19 which received three green and one yellow, and Pearl
20 Harbor, which received one red and three green? They
21 passed them over. They took them out of consideration.
22 A. For good and obvious reasons.

1 Q. Namely?

2 A. I just went through them. Part of them were on

3 the East coast, not on the East Coast, some of them have

4 nuclear capabilities, and most of them don't, some of them

5 have massive strategic differences.

6 For example, you know when you're dealing with

7 Hawaii, just like Guam, or just like the Philippines, it

8 has somewhat of an increased value than something sitting

9 on the East Coast, where there's about eight or nine other

10 shipyards.

11 I mean, you may not understand that unless you

12 get into it, but once you get into it you recognize that,

13 and all those things were taken into consideration.

14 Q. Mr. Chairman, I beg you to think of this

15 question, because I asked you before. What you've just

16 said related to the first four military value criteria

17 that include whether it's nuclear, not nuclear, where it's

18 located, everything else, right? Isn't that right?

19 A. All of the things that I said that they relate

20 to the issue of military value, maybe, but I could have

21 mentioned others that didn't as well. Yes, I didn't

22 mention quality of life. I could have mentioned payback.

1 I could have mentioned economic impact on communities.

2 Q. Well, that's the remaining four criteria.

3 A. Well, they're important, too.

4 Q. But we're talking about the ratings on the first

5 four criteria. Philadelphia received the identical rating

6 as seven other yards, or as four other yards.

7 A. May I explain it a different way so everybody

8 can understand it at this table, hopefully? Let's just

9 say we are playing baseball, and if you're batting between

10 100 and 200, you get a red, and if you're batting between

11 200 and 33 you get a yellow, and if you're batting at the

12 end of the year between 300 and 400 you get a green, and

13 you have eight players, and of those eight players all of

14 them are yellow.

15 That doesn't mean they're all equal. That means

16 that that is a measure that you have to go beyond and look

17 for additional information, and that is what we did, and

18 that is why we could confirm that Philadelphia was the

19 correct decision.

20 Q. Is it your testimony, Mr. Chairman, that you

21 carefully looked at and analyzed all eight shipyards?

22 A. I didn't visit.

1 Q. No, that your Commission analyzed all those
2 things you just mentioned with regard to all eight
3 shipyards?
4 A. No. No, it is not, because that was not our
5 charge. Our charge was to fairly analyze the process and
6 to measure whether the particular service deviated
7 substantially with the criteria, and we concluded after
8 all of this testimony and all of this data and all this
9 information that they did not.
10 Our task was not to visit every facility in the
11 United States of America. It couldn't have possibly been
12 presumed to be that, because we would have needed two or
13 three years to do it.
14 Q. How could you tell whether the Navy treated all
15 eight yards equally if you didn't look at all eight yards?
16 A. We can do that without visiting all eight yards.
17 Q. I didn't ask if you visited them. I asked
18 whether you performed an analysis of the first four
19 criteria.
20 A. Looking at it from the standpoint of examining
21 the data, finding out whether the Navy applied it
22 correctly to all the other shipyards, that was done, that

1 is correct.

2 Q. Who did that?

3 A. Staff did that.

4 Q. When?

5 A. During this process.

6 Q. Where is the writing to confirm that?

7 A. You can talk to Alex Yellin. He will explain

8 what we did.

9 I myself spent a great deal of time talking to

10 other Commissioners, talking to other people inside the

11 Navy, talking to Members of Congress that were arguing,

12 you should close another shipyard, examining the

13 differences between the attributes of Philadelphia and the

14 attributes of other shipyards.

15 I didn't visit them, but we were convinced after

16 we went through this entire process that there was no

17 substantial deviation, that there was reasons why at this

18 particular time the other shipyards should be spared.

19 I might add that as the force structure -- as

20 the force structure continues to be reduced as

21 congressional budgets shrink it will not be Philadelphia

22 in '93 that sues us, it will be another shipyard, because

1 we will be looking at others as well. This process is not
2 over.
3 Q. Long Beach was excluded. Why? Because it rated
4 worse than Philadelphia.
5 A. I don't have all the data. I would have to dig
6 it out and refresh my recollection on Long Beach right
7 now. I believe that that one is nuclear-capable. I
8 believe that -- well, obviously it's on the West Coast.
9 It may not be. It's on the West Coast, certainly. There
10 was a different situation on the West Coast. I would have
11 to refresh my recollection.
12 Q. Did you make any investigation, or did the
13 Commission make any investigation what private shipyards
14 would be available to handle West Coast aircraft carriers
15 if Long Beach were closed?
16 A. We had -- we looked at private -- what the
17 availability was with regard to private shipyards
18 throughout the United States, yes. We as a Commission
19 felt strongly that private shipyards should fulfill a role
20 when it comes to the maintenance and repair of Navy ships.
21 Q. So just as you considered Newport News drydock
22 and Shipping and Drydock Company on the East Coast, your

1 Q. You can look at your notes.

2 A. Thank you very much. I didn't know if that was

3 a requirement to make a proper decision, to memorize --

4 Q. To remember? Which of those criteria would

5 nuclear be included in?

6 A. Four, three, and one. Now, if I have to explain

7 that --

8 Q. Which of the remaining criteria would nuclear be

9 involved in?

10 A. Seven, maybe eight. Depending upon the

11 circumstances and the type of environmental problems it

12 could certainly very well be eight, and maybe five, too.

13 Q. Now, the Navy excluded all of the nuclear

14 shipyards in Phase 2 before they got to the last four

15 criteria. They eliminated them after the first four

16 criteria?

17 A. That is correct. That is their process.

18 Q. They eliminated them, but they eliminated them

19 even though in doing -- in calculating the first four

20 criteria Philadelphia received the same rating as

21 Charleston, Mare Island, Pearl Harbor, and Portsmouth.

22 Explain that.

1 A. We went over that before, and I would defer to
2 my answer with regard to the colors and the batting
3 averages. There are other things involved besides three
4 colors when it comes to these facilities, so it is very
5 easily explained.
6 Q. Your conclusion with regard to access capacity
7 relates solely to nuclear, is that right?
8 A. I don't understand that question at all.
9 Q. I thought your statement was they eliminated all
10 the nuclear shipyards because they needed nuclear
11 shipyards, they eliminated Philadelphia because they
12 didn't need a nonnuclear shipyard?
13 A. There was other things besides -- besides
14 nuclear-capable that went into the decision. It is my
15 understanding that was a factor, and it was such that
16 there was a higher need and therefore less of a redundancy
17 and excess capacity in nuclear shipyards I think up until
18 the year 1995 -- four or five, when that would start
19 coming down as well. That was our analysis.
20 Q. So your testimony is that there is a need for
21 six nuclear shipyards during the six-year period of
22 consideration mandated by the Base Closure Act?

1 A. My opinion and my decision was that in order to
2 match infrastructure with the force structure we had to
3 eliminate one of the eight public shipyards and all the
4 evidence pointed that Philadelphia would be the one
5 removed. The Navy made that decision, and we did not find
6 any substantial deviation to change it.
7 Q. Did you make any investigation as to what it
8 would cost to make Philadelphia nuclear-capable?
9 A. It would cost a lot of money.
10 Q. How much?
11 A. I don't know, and since there was a lot of them
12 that were already nuclear-capable, it seemed to be a
13 rather ridiculous thing to do, and as a matter of fact I
14 don't recall even Philadelphia making that argument.
15 Maybe they did, but I don't even recall it.
16 Q. You do know that Philadelphia operated in a
17 manner that was without cost to the Federal Government?
18 A. We looked at that issue carefully, many, many
19 times, and that is the most misleading conclusion and
20 statement that was made. If you can make ships for free
21 and not pay people, then it would make sense.
22 To say that when you build a ship or repair a

1 ship or surface life extension a ship there's no cost to
2 the taxpayers is very misleading. There is. There is
3 ways to account and trying to justify greater efficiency
4 in one yard versus another, but to say it doesn't cost any
5 money is absurd. It costs a lot of money.
6 A. SLEP of an aircraft carrier is an expensive
7 proposition that costs over hundreds of millions of
8 dollars, and takes years and thousands of individuals
9 working every single year. And to say it doesn't cost any
10 money is ridiculous.
11 Q. You understood my question to suggest that it
12 didn't cost any money?
13 A. Yes, when you said it didn't cost the taxpayers
14 any money.
15 MR. ANDERSON: The record will speak to it.
16 THE WITNESS: Why don't we hear your question.
17 MR. ANDERSON: Let's not argue over it. Let's
18 go on to the next question.
19 BY MR. KAUFFMAN:
20 Q. What evidence did you consider on the subject of
21 whether it was cost-effective to close Philadelphia Naval
22 Shipyard?

1 A. What evidence would you consider -- could you
2 maybe read back the question? I want to make sure I
3 understand it. Or just read it again. I'm sure it's in
4 writing right in front of you. All right, well say it
5 again. I'm sure you remember it.
6 Q. I do make up my own questions.
7 A. Well, I understand that. You're looking at a
8 piece of paper. I figured you were reading.
9 MR. ANDERSON: Can I just say -- you know, all
10 the deliberations were conducted in public. This is all a
11 matter of public record. I fail to see --
12 MR. KAUFFMAN: I haven't seen anything in public
13 on that subject. Therefore, all I want him to say is it
14 wasn't considered.
15 THE WITNESS: Say it again, please. I honestly
16 want to know the question.
17 BY MR. KAUFFMAN:
18 Q. What evidence did you consider on whether it was
19 cost-effective to close the Philadelphia Naval Shipyard?
20 A. We analyzed -- our staff analyzed the arguments
21 on the cost of closure, and mothballing the five drydocks.
22 There was some dispute as to the number of people that

1 would be required to maintain them and to police
2 them -- the cost of keeping open the Propeller Shop, the
3 Repair Facility and another facility. That cost analysis
4 was scrubbed and gone over time and time again, until we
5 were satisfied with the accuracy of those numbers. They
6 were compared to an analysis done by our staff, and
7 by -- I believe -- the Community of Philadelphia with
8 regard to the recommended proposal. And that is a massive
9 reduction in the work force to reduce it down to about
10 1,200; the cost of same.
11 Other numbers were analyzed. Other scenarios
12 were looked at -- that if Philadelphia was at full
13 capacity, what then, in outer years, would that mean to
14 the type of efficiencies of other yards on the east coast?
15 And we found great inefficiencies there, it Philadelphia
16 was forced to remain open.
17 So I remember -- and I don't, of course, have
18 the numbers in front of me -- but I remember looking at
19 the cost analyses with regard to various scenarios.
20 Q. Well, did you understand that Philadelphia had
21 recovered all of its costs for at least the last 2 years
22 from its shipyard customers?

1 A. I'm not sure what you mean by that.
2 Q. That the Federal Government didn't pay any money
3 to keep Philadelphia open, other than paying the costs
4 that it would -- probably less than it would have paid at
5 any other shipyard.
6 A. There's all sorts of ways to make those numbers
7 sound crazy. And we spent a great deal of time looking at
8 them. In fact, I spent a great deal of time sitting down
9 with Will Ball so I could understand what no cost really
10 means. And it always meant that it cost a lot of money to
11 repair a ship.
12 Q. Yeah, it costs a lot of money to repair a ship
13 wherever you repair it, doesn't it?
14 A. Absolutely.
15 Q. And if it costs less money to repair that same
16 ship in Philadelphia than it did at Newport News
17 Shipbuilding and Drydock Company, that's an important fact
18 that you should have considered, isn't it?
19 A. Number one, it's a fact. There is no doubt that
20 it's very cheap in Philadelphia, and the work is just as
21 good. It's one of the considerations. And it's a
22 consideration that we looked at, certainly. But there's

1 many other considerations as well. And that is, just
2 simply that if -- just like a building, if it's only 50
3 percent leased, it's very inefficient. If our shipyards
4 are not fully utilized, to a reasonable capacity, there's
5 great inefficiencies and loss of taxpayers' money there
6 too. And so, you know, we looked at all that very
7 carefully.
8 Q. So did you look at what discretion the Navy had
9 in deciding whether to send a vessel to Philadelphia to be
10 repaired or Newport News Shipbuilding and Drydock Company?
11 A. Yeah, we looked at that as well, under various
12 scenarios, I remember. One, for example, was when
13 Philadelphia was doing their analysis, they left out the
14 cost of moving the personnel, the sailors on the ships.
15 They did not add that in their calculations. And we did.
16 For example, what I'm saying is, is when a ship
17 needs an overhaul, the personnel that are on that ship
18 have to stay some place on land. And since, I believe, in
19 Newport News and that area of the country there's home-
20 porting very near where the shipbuilding is being done,
21 the cost of living is, number one, significantly less than
22 Philadelphia, and you don't have to move people very far.

1 If you took that same ship up to the
2 Philadelphia facility, it would mean those thousands of
3 sailors would have to go from there and be moved to a
4 different part of the country so they could be home-
5 ported, and then moved back, 3 or 6 months later to get on
6 that ship, spending a significant amount of time in
7 Philadelphia where the cost was higher, before they got on
8 the ship and the ship was out again in the open water.
9 So we did look at that -- we looked at all sorts
10 of things. We looked at strategic scenarios with regard
11 to conventional and nuclear weapons in that part of the
12 world, what that would do to tie up ships along the
13 Delaware River, and if they were in Philadelphia; the
14 number of steaming hours it takes to get them free and
15 clear of mines that would be laid in shallow waters.
16 There was a lot of analysis that went in by the
17 Commission.
18 Q. If the Navy had disclosed to you before you
19 reached your conclusions with regard to closure of bases
20 in the report to the President, that it would cost in
21 excess of $1 billion -- that's with a "B" -- to close the
22 Philadelphia Naval Shipyard and clean it up efficiently to

1 enable it to serve other uses, would you have recommended
2 closure?
3 MR. ANDERSON: I object to that. It's
4 hypothetical, unless you've got some foundational document
5 there.
6 MR. KAUFFMAN: I sure do.
7 MR. ANDERSON: Why don't you show it to the
8 Chairman?
9 THE WITNESS: No, that's okay.
10 MR. ANDERSON: It's not okay with me.
11 THE WITNESS: It's not okay with you guys.
12 BY MR. KAUFFMAN:
13 Q. I'd like to mark as Defendant's Exhibit No.
14 16 -- I'm sorry, Courter Exhibit No. 16, dated 11 July,
15 1991.
16 (The document referred to was
17 marked Courter Exhibit No. 16
18 for identification.)
19 BY MR. KAUFFMAN:
20 Q. Mr. Courter, you know that the Navy, after you
21 reached your conclusions regarding the closure of the
22 Philadelphia Yard disclosed that it would cost an excess

1 of $1 billion to clean up that -- to clean up the yard
2 sufficiently to enable it to serve other uses. Isn't that
3 correct?
4 A. I take your representation as being true. I
5 personally have not examined the document.
6 Let's just assume that it's true, and I will
7 answer it. I mean this thing is highly technical. And
8 it's probably 40 pages. Can I just answer the question
9 assuming that it is true? I will assume it's true nad let
10 me answer the question. Can we just say -- let's make an
11 assumption it's true. I don't know, but let's make an
12 assumption that it's true and let me answer the question,
13 okay?
14 The Commission looked into the issue of clean-
15 up very carefully, because we discovered that there was a
16 tremendous environmental degradation in almost every
17 military facility in the United States. Many of them are
18 on Superfund sites and the cost of clean-up was huge and
19 dramatic in many of these instances.
20 As a matter of fact, the cost of clean-up in
21 some of these facilities could not be known for many years
22 because it cost a lot of money to examine the type of

1 hazardous waste and other types of pollutants that were
2 underneath the ground; how far they had leached; the
3 methodologies in cleaning it up; and the scientific
4 capabilities and methodologies keep changing. And the
5 cost keeps changing as well.
6 The Commission recognized that the Department of
7 Defense has an affirmative obligation to clean-up all of
8 these sites that have pollution problems, where they have
9 environmental degradation, irrespective of whether the
10 facility is remained open or closed. In fact, the time in
11 which they do it is irrelevant on the issue of open and
12 closure. So therefore, it was not a factor in determining
13 what our decision would be. It could not be a factor.
14 Because the obligation of DOD is affirmative. They have
15 to clean these up. They have -- they're in the process of
16 negotiating and working out time frames with EPA. And
17 it's totally irrelevant to whether the facility is open,
18 closed, expanded, or abandoned.
19 MR. KAUFFMAN: Why don't we take a break?
20 (Brief recess.)
21 BY MR. KAUFFMAN:
22 Q. Mr. Chairman, you testified a few moments ago

1 just keeping it there. It's like paying for a babysitter
2 just in case you need one.
3 Q. Is there any data in writing that would reflect
4 the consideration of the cost of emergency drydocking at
5 Newport News?
6 A. There may be, and we will get it to you if there
7 is. And once again, I am not sure whether I understand
8 the question properly. You say emergency drydocking at
9 Newport News. If that means it varied dramatically as to
10 whether there was a dedicated slot that was open anyway,
11 or whether you had to pay for its being dedicated, and the
12 type of work involved, and also whether you could properly
13 compete that with either a public or another private yard,
14 and so those numbers probably would not be too accurate,
15 really, without examining where they would end up with.
16 Q. The Commission did rely on carrier-capable
17 drydocks at the Newport News Shipbuilding to provide,
18 along with the Norfolk Naval Shipyard, and mothball
19 drydocks in Philadelphia, a capacity for unplanned
20 requirements. Is that right?
21 A. Yes, that's correct. Which was the reason why
22 they wanted to not sell the assets, but basically mothball

1 them in case of the contingencies that were
2 unexpected -- and which has been done before on the west
3 coast, by the way. They mothballed a drydock at one of
4 the facilities in the Bay area. And there was a nuclear
5 carrier that ran aground and was reactivated. So it was
6 successfully done in the past, and they figured it could
7 be done in the future.
8 Q. But did you consider the cost of having carrier-
9 capable drydocks at Newport News Shipbuilding in reaching
10 the conclusion which you did on page 5-28, of your report,
11 Courter Exhibit No. 14?
12 A. Where is that now?
13 Q. 5-28.
14 A. Could you repeat the question? I mean I concur
15 in that paragraph that says "the Commission found that the
16 combination of carrier-capable drydocks at Norfolk Naval
17 Shipyard and Newport News Shipbuilding and the mothball
18 drydocks at Philadelphia provide capacity for unplanned
19 requirements." That is in our report, and it's accurate.
20 Q. But the question is, did you consider the cost
21 of the Newport News Shipbuilding carrier-capable drydocks
22 for your -- for use in this conclusion?

1 A. Yeah, costs of doing repair work was always
2 considered by the Commission.
3 Q. But we're talking about, now, unplanned
4 requirements for drydocks -- carrier capable drydocks.
5 And you're talking about including Newport News
6 Shipbuilding as providing capacity for unplanned
7 requirements.
8 A. Yes.
9 Q. My question is, did you consider the cost for
10 providing that unplanned requirement at Newport News
11 Shipbuilding?
12 A. Well, I interpret the question to mean did
13 we -- yeah -- did we look at the cost factor of doing that
14 type of work in Newport News. And the answer is yes. We
15 looked at the cost of doing that in different parts of the
16 United States, the cost generally of ship repair.
17 Q. And what writings do you have to reflect those
18 considerations?
19 A. I -- whatever the staff has.
20 Q. I would like to request that that be produced,
21 if you have it -- if there is a -- .
22 A. Yeah.

OFFICIAL TRANSCRIPT
BEFORE THE

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SENATOR ARLEN SPECTER, et al.,

Plaintiffs,

v.

H. LAWRENCE GARRETT, III, et al.,

Defendants.

CIVIL ACTION NO.

91-CV-4322

Hon. Ronald J. Buckwalter

Washington, D.C.
Friday, September 13, 1991

Deposition of PATRICK W. DRENNON

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1 Navy and I have a bachelor's degree from Georgia Tech. I
2 have a master's degree from the University of Illinois,
3 both in civil engineering.
4 And for my professional background, most all of
5 the jobs I have had in the Navy have been one way or
6 another related to facilities, shore facilities. That is
7 what civil engineers do in the Navy. It is a wide range of
8 issues, from construction to maintenance to construction
9 battalions to staff jobs that have to do with the
10 management of construction and maintenance and utilities
11 and family housing.
12 Q What position do you currently hold?
13 A I am the Director of the Shore Activities
14 Division for the Chief of Naval Operations; OP-44.
15 Q Could you describe what other positions you have
16 held, if any, in the last five years?
17 A Well, I have held positions in the last five
18 years -- the question was funny. Well, before this job, I
19 was the Commander of the Western Division for the Naval
20 Facilities Engineering Command. That is in San Francisco.
21 In that job, I had the responsibility for the whole West
22 Coast of the United States with regard to those items that

1 that or the principal duty of OP-44 would be the collection
2 of data?
3 A Yes.
4 Q Any other duties you would perform in a staff
5 supporting role in the base closure process?
6 A Well, we collect the data. We put the data -- we
7 format the data. We prepare -- put that data in certain
8 formats for presentation. We may be asked to analyze that
9 data or go back and ask other people for the data. So,
10 there are some support functions that we would perform in
11 that respect.
12 Q When you say OP-44 might be asked or may be asked
13 to analyze the data, is it fair to say then that the
14 analysis of data is not a typical function for OP-44?
15 A Not really because we are a relatively small
16 staff, at least the staff associated with the base closure.
17 So, we relied very -- almost exclusively on expertise,
18 experts within the Department of Navy in their area of
19 expertise. We would go to them to obtain the data and in
20 most cases the analysis.
21 Q Is it fair to say that in connection with your
22 data collection concerning Naval shipyards, that you would

1 recommendations of the Base Structure Committee became more
2 apparent.
3 Q How long did this process that you are
4 describing, OP-44's collecting data and analysis through
5 OP-43, last?
6 A This is with regard to the Base Structure
7 Committee process?
8 Q Yes.
9 A It lasted from the time the Base Structure
10 Committee was formed in December until we completed the
11 analysis report, which was at the end of March.
12 Q Now, you mentioned that your duties and
13 responsibilities in connection with base closure and
14 realignment began the day you began as OP-44 on 7 July
15 1990. Is that right?
16 A Yes.
17 Q What you are describing now with respect to the
18 data collection and analysis done by OP-43 didn't begin
19 until December of 1990. Is that right?
20 A Yes.
21 Q Can you tell me what happened generally between 7
22 July 1990 and December 1990, with respect to base closure?

1 A Well, you may or may not be familiar with the 25
2 January list that was proposed by Secretary Cheney. There
3 were several actions that were taking place after that list
4 was made public, one of which was a study that was
5 commissioned by the Vice Chief of Naval Operations that has
6 been referred to as the VCNO Study of the OPNAV Study.
7 That was to go back in and look at the total Navy and see
8 whether the list that came out on 25 January was -- whether
9 the installations on that were valid and, if so, maybe they
10 had some other installations that ought to be closed. So,
11 there was an ongoing effort in that process.
12 And OP-44, again, as it was in other pieces of
13 the process was sort of the staff behind the actions that
14 were taken, the facilitator of the data and the meetings
15 that took place.
16 Q So, is it fair to say that what OPNAV did in
17 connection with base closure and realignment between July
18 and December of 1990, didn't differ very much from what it
19 did in connection with base closure and realignment between
20 December of '90 and March '91?
21 A There was quite a bit of difference.
22 Q Could you explain the difference?

1 A Well, there was -- in the intervening time, there
2 was a new Act. This new Act had some very specific
3 requirements to it and that was to go back and start from
4 zero and it was to use a set of specific criteria -- well,
5 use some criteria that later was developed by the Office of
6 the Secretary of Defense and provide the eight criteria and
7 so there were some specific procedures that had to be
8 followed with regard to this new Act. And, so, effectively
9 the Navy started over in the December time frame.
10 So, some of the data that would have been
11 developed since the previous January, that data collection,
12 that group of data, was used in both instances, but all of
13 the previous process was essentially set aside and there
14 was a whole new process that took place.
15 Q Let me understand. You say the same data that
16 had been used under the old process was used in December
17 and to March in the process. Is that right?
18 A Right.
19 Q But something new happened. What was the new
20 thing? The same data was used, but a new analysis? Is
21 that what --
22 A Well, the data was validated or revalidated by

1 the data sources to make sure it was current, to see if
2 there were any -- at that time any changes in the criteria
3 at that time we were working with. And, so, that it was
4 updated so that it would be meaningful in the process that
5 was now going to restart in the December time frame.
6 Q Is it fair to say that the analysis of the data
7 did not change?
8 A I don't know. In some cases, the analysis may
9 have changed, depending on -- we looked by some of the
10 responsible officers that were looking at the data.
11 Q But you have no personal knowledge of any
12 analysis having been altered between the July to December
13 time frame versus the December to March of 1991 time frame.
14 Is that correct?
15 A I don't think "altered" is the right word. That
16 implies that -- I think what we are talking about here is
17 there was this data, this group of data that had been
18 compiled through the summer and when we got ready to start
19 the new process, we said to people, all right, we have gone
20 through six or eight months now. Go back and take this and
21 let's make sure that the criteria issues that you are
22 looking at are still the issues that are important to you

1 and let's make sure that as you evaluate those that your
2 evaluations are the correct evaluations because we are
3 going to start now under a process, under a new law and we
4 want to make sure the data is up to date and it is the best
5 data that we can use to start the evaluation.
6 Do I personally know of individual sheets where
7 things were done in that process? No, I don't.
8 Q Now, these directions that you have just finished
9 describing, correcting the evaluations, making sure it was
10 the best data, were they directions, suggestions that OP-44
11 gave to OP-43 or, if not, where -- who was giving whom
12 direction in that regard?
13 A OP-44 in its capacity was the one that was asking
14 for these revalidations to all the sources, not just OP-43.
15 Q Since, as you have testified, OP-44 relied almost
16 exclusively on OP-43 for data collection and analysis, is
17 it fair to say that OP-44 really wasn't in a position to
18 determine whether OP-43 had revalidated or corrected
19 evaluations or done any of these things that you just
20 mentioned?
21 MR. GUTMAN: Let me object to the question. I
22 don't think it fairly represents the Admiral's testimony on

1 OP-43's responsibilities. You have to distinguish between
2 all data collection and that data collection.
3 MR. DAVISH: All right. I will rephrase the
4 question.
5 BY MR. DAVISH:
6 Q Given what you have told me, that OP-44 relied
7 almost exclusively for its data collection and analysis
8 with respect to shipyards on OP-43, that OP-44 really
9 wasn't in a position to determine whether or not OP-43 had
10 revalidated or corrected evaluations or sought the best
11 data or done any of the things that you mentioned that OP-
12 44 would have asked OP-43 to do, after the passage of the
13 new Act. Is that right?
14 A Only to the same degree that it would be with any
15 of the people we asked for data. We asked them to go
16 through and check it and determine it. If they came back
17 to us, they gave us their input with regard to the data.
18 So. one has to assume that they went through and they did
19 that. Now, there may have been conversations at the staff
20 level that we affirmed that. But at my level, I don't know
21 of that.
22 Q But as a general matter, it is fair to say that

1 to say that OP-44's duties and responsibilities in
2 connection with that part of base closure, the earlier base
3 closure process, were at an end?
4 A Well, you know, the process of the VC in those
5 days was a continuing process. It didn't come to an end
6 when you just gave a certain piece of analysis and a piece
7 of data. That process went on for awhile. I don't know
8 that you could say our responsibility ended when we gave
9 that data to the advisory committee.
10 Q So, OP-44, it is fair to say, was involved in an
11 ongoing process of obtaining from OP-43 data and analyses
12 on shipyards from the earlier base closure process up
13 through the new base closure process instituted as a result
14 of the 1990 Act?
15 A Yes.
16 Q Same people involved?
17 A Same people.
18 Q Do you recall if that advisory committee, about
19 which you have spoken, reached any conclusions or made any
20 recommendations with respect to the closure of Naval
21 shipyards?
22 A Yes.

1 Q Do you recall what those conclusions and
2 recommendations were?
3 A There were -- that process did not come to a
4 closure until the time the Act had been passed and we had
5 to start over. So, the VCNO study was brought to a closure
6 in about November to the first of December time frame,
7 somewhere in that time. I can't remember the exact dates.
8 Out of that came some recommendations that were
9 presented to the Chief of Naval Operations and those -- and
10 no decisions were made on those by the Chief of Naval
11 Operations, but those recommendations of the advisory
12 committee and then what I would characterize as a range of
13 acceptability for the Chief of Naval Operations were later
14 presented to the Base Structure Committee and they are as
15 part of the record of the Base Structure Committee.
16 If I can recall, there were two options shown in
17 there for the shipyard at Philadelphia in that list.
18 Q Do you recall what options they were?
19 A Option No. 1 is essentially the option that we
20 see today and that was the preserving of the shipyard. The
21 word "mothballing" may have been used in the list and
22 effectively as you see it today, and the second option was

1 the small ship repair facility. That is as I recall it. I
2 would have to look at the list to make sure.
3 Q Do you recall if the advisory committee
4 recommended one option as opposed to another?
5 A I think they were placed in an order of
6 preference.
7 Q So that is to say, Option No. 1, which was
8 mothballing, was the preferred option?
9 A Right.
10 Q Do you recall when the advisory committee made
11 that recommendation or came to that conclusion?
12 A I can't recall the exact meeting that took place
13 nor the date of that meeting.
14 Q Would it have been the summer of 1990?
15 A Oh, no, no. This was much later. This was -- as
16 I mentioned before, this was after the Act, so that we
17 brought the deliberations of the advisory committee, the
18 VCNO study, to some type of closure and so that meeting
19 took place -- I am not sure. It could be around the -- it
20 could have been as late as January. It is somewhere in
21 that time frame, November, December, January time frame.
22 Q Correct me if I am wrong. You said that the

1 advisory committee's recommendations and conclusions were
2 made available to or presented to the Base Structure
3 Committee. Is that right?
4 A No. The recommendations of the advisory
5 committee and the chairman of the advisory committee were
6 discussed with the Chief of Naval Operations and then that
7 list characterized as a range of acceptability, not
8 decisions by the Chief of Naval Operations, not
9 recommendations, but a range of acceptability was later
10 presented to the Base Structure Committee so that the Base
11 Structure Committee would have the benefit of that long,
12 ongoing analysis that have been done through the VCNO study
13 and some of the thoughts of the Chief of the Naval
14 Operations with regard to base closure.
15 Q So, do you recall approximately when these
16 advisory committee recommendations were discussed with the
17 CNO?
18 A No. I was not part of that, so I don't know.
19 Q You just mentioned that -- you mentioned a date
20 as late as January 1991 in connection with this advisory
21 committee recommendation. To what were you referring then,
22 what presentation, to whom --

1 A As late as that time frame. I would have to go
2 back and check, but in that time frame was the issue of
3 closing out the VCNO study, bringing it to some sort of
4 closure so that there could be some range of options and
5 acceptability that came out of that process, that could be
6 made available to the Base Structure Committee so the Base
7 Structure would know at least what the feelings of the
8 Chief of Naval Operations and the Vice Chief of Naval
9 Operations study was to -- as an input into their process.
10 Q Is that the thing that might have occurred as
11 late as January '91?
12 A Yes, right.
13 Q So, given what you have said, the opinion of or
14 feelings of the CNO with respect to base closures that was
15 made available to the Base Structure Committee perhaps in
16 January of '91 --
17 A Well, I am not sure exactly when they were made.
18 I am just saying that that is when that process came to a
19 termination. The exact date of when that presentation was
20 made to the Base Structure Committee is right in the -- it
21 is in the data of the Base Structure Committee. It is
22 right in the record of the Base Structure Committee.

1 sessions, you or Captain Tzfaras or both of you were there?
2 A Yes.
3 Q Is it fair to say that you played an active role
4 in many or most of these BSC meetings?
5 A Well, active from the standpoint of presentation
6 of data and issues, but I as not being a member of the Base
7 Structure Committee, I was not active in the
8 determinations.
9 Q Do you recall any particular meeting where the
10 issue of Naval shipyards was discussed by the Base
11 Structure Committee?
12 A Yes.
13 Q More than one?
14 A Yes.
15 Q Do you know how many?
16 A I can't give you the exact number but shipyards
17 came up as part of the presentation process for its
18 capacity analysis and then later further analysis and, so,
19 it was more than three and less than ten. I mean, it was
20 part of the issues that were being discussed and there were
21 specific presentations made to the Base Structure Committee
22 by NAVSEA and by the members of OP-43 or with OP-43, but

1 primarily by NAVSEA.

2 Q You say that members of OP-43 made direct

3 presentations to the Base Structure Committee?

4 A I don't think I remember an OP-43 person standing

5 up making a presentation, but they were there with NAVSEA

6 as part of the presentations being made.

7 Q So, both NAVSEA and OP-44 made presentations to

8 the Base Structure Committee on the subject of Naval

9 shipyards?

10 A Yes. Now, again, as I say, the data that I

11 presented was data that was strictly data that had been

12 collected and presented from a capacity analysis and data

13 that came in through the process of data collection. So,

14 the presentations I made were facts. Here is the data.

15 Here is the data definitely.

16 NAVSEA's presentations before the Base Structure

17 Committee were different type of presentations.

18 Q Why were they different?

19 A Because the Base Structure Committee in its

20 desire to make sure it looked at all the options and all

21 the issues surrounding that, gave organizations like NAVSEA

22 and there were other organizations, too, in other

1 categories of facilities, the opportunity to come in and be
2 heard and to present their positions. NAVSEA came before
3 the Base Structure Commission several times on the issue of
4 shipyards.
5 As a matter of fact, I think NAVSEA probably had
6 more opportunity than any other part of the Navy to present
7 their positions with regard to shipyards.
8 Q Do you know why that was?
9 A No, I don't.
10 Q Does it seem a natural thing for NAVSEA to have
11 weighting so heavily on the issue of Naval shipyards?
12 A NAVSEA is in charge of shipyards, so it guess it
13 would be natural if they had an opinion or they had the
14 position that they were trying to get across, that they
15 would want to be there and present their position.
16 Q So, NAVSEA had particular positions or
17 recommendations or conclusions that it was urging or
18 suggesting that the Base Structure Committee adopt. Is
19 that correct?
20 A Yes.
21 Q Is it fair to say one of those suggestions or
22 recommendations was to close the Philadelphia Naval

1 or to go through a question and answer period. Other than
2 that, they didn't deal directly with them.
3 Q Did you or anyone else on your staff concerned
4 with closure deal with one member of the Base Structure
5 Committee or working group anymore than they dealt with
6 other members?
7 A No.
8 Q So, it is fair to say that there was no member of
9 the Base Structure Committee or working group that was more
10 concerned than the others or had the greater responsibility
11 than other members to deal with Naval shipyards?
12 A No. That is a correct statement. There were
13 none that had anymore responsibility.
14 Q Is there one, do you recall, that took a greater
15 interest in it or asked you more questions about shipyards?
16 A No.
17 Q Now, back to NAVSEA, you said that NAVSEA did
18 have a recommendation about the Philadelphia Naval
19 Shipyard. Is that right?
20 A Yes.
21 Q And it made that recommendation to the Base
22 Structure Committee. Is that right?

1 A Yes.

2 Q That recommendation was to close or mothball the

3 shipyard in the matter, which has ultimately come to pass.

4 Is that right?

5 A No. That is what you said before, that that was

6 their recommendation. NAVSEA made a presentation on

7 several positions before the Base Structure Committee.

8 There is a copy of that in the record of the Base Structure

9 Committee.

10 Q Were you asked your opinion or OP-44's opinion

11 with respect to the Naval shipyard at any time?

12 A No.

13 Q Did you at any time express an opinion or a

14 recommendation to anyone on the Base Structure Committee or

15 the working group, regarding closure or realignment of the

16 Philadelphia Naval Shipyard?

17 A OP-44 opinion?

18 Q Yes.

19 A No.

20 Q Did you express any opinion whatsoever concerning

21 closure of the Philadelphia Naval Shipyard?

22 MR. GARVEY: I will object to that as irrelevant,

1 A No.

2 Q And that is because it simply wasn't the role of

3 OP-44 in the base closure process?

4 A That is right.

5 Q Do you recall if any member of the Navy's Base

6 Structure Committee or the working group ever sought from

7 you or OP-44, any particular piece of data about the

8 Philadelphia Naval Shipyard, which you did not have in your

9 possession and had to go and seek out from someone else,

10 possibly OP-43?

11 A When you say "working group," what are you

12 talking about?

13 Q You are familiar with the term "working group"?

14 A I know what working group is, but this is the

15 first time the term has come up in the conversation. What

16 work group are we talking about here?

17 Q Let me ask you. I understood there was a working

18 group in connection with the Base Structure Committee,

19 comprised of several Navy personnel. Are you familiar with

20 any such working group?

21 A There was a working group that was part of the

22 VCNO study, the advisory committee, and then there was a

1 working group and that working group sort of stayed in
2 being and that was composed of the different OP-Codes that
3 had input into the process, the experts in different areas.
4 That is the only working group that had a title "working
5 group" that I am familiar with and the OP-43 and NAVSEA
6 people had representation on that working group, if that is
7 the working group you are talking about.
8 And that working group was used from time to time
9 and would go and gather information or get additional data
10 and so forth.
11 Q Was that group used in connection with the Base
12 Structure Committee?
13 A Yes. I believe we kept that in operation so that
14 we could have a forum to go and retrieve data and more data
15 if we needed to.
16 Q Do you know if members of the working group as it
17 was comprised at the time it reported to the advisory
18 committee versus the time it was reporting to the Base
19 Structure Committee changed at all?
20 A I don't know.
21 Q Do you know any of the names of the members of
22 the working group?

1 the title was, but he was the leader maybe of the Navy team
2 -- Navy analysis team for the Base Closure Commission.
3 Q Did you deal directly with him in connection with
4 your presentations or duties concerning the Base Structure
5 Committee?
6 A No.
7 Q Did you ever have any conversations or
8 communications with Mr. Yellin concerning Naval shipyards?
9 A Yes.
10 Q When was that?
11 A This was later, after the Base Closure Commission
12 had formed and was doing the analysis on the Navy's
13 recommendations. At that time, because he was the leader
14 of the Navy analysis group of the Commission, there was a
15 lot of information that was being requested of the Navy by
16 the Commission. So, with regard to that information and in
17 facilitating the answers to that, there were times when Mr.
18 Yellin and I talked. There were times when the subject was
19 information for shipyards and there were times when it was
20 information for other things.
21 Q Do you recall any specific meetings wherein the
22 shipyards were discussed?

1 A No.

2 Q But it is fair to say there probably would have
3 been more than one meeting where shipyards were discussed
4 between you and Mr. Yellin?

5 A No, I wouldn't characterize it as a meeting.
6 Most of my dealings with Mr. Yellin was on the telephone.

7 Q Is it possible to characterize what the substance
8 of your conversations regarding Naval shipyards were?

9 A It was -- whatever the discussions were, it had
10 to do with specific questions that the Base Structure
11 Commission, questions they were asking us and our answers
12 going back. It was nothing specific. It was where we are
13 going to send you so many questions and here are these
14 questions and we would like a response back by a certain
15 time or there may be a question that he sent us and I
16 wanted to clarify the question and I called him up and made
17 sure that we had an understanding of the questions.

18 Some of those were shipyard questions and some of
19 them were questions with regard to other type of
20 facilities.

21 Q Did there ever come a time when Mr. Yellin said
22 to you I need data or analysis to support this particular

1 presented by the Army and the Air Force, the detail of
2 documentation, whether the Navy's recommendations were
3 affected by that. So, the Commission themselves took that
4 responsibility on to dig digger into the Navy's process and
5 to question and hold meetings, to investigate that issue
6 and then later the Base Closure Commission determined that
7 the lack of the documentation was not an issue and the
8 Navy's recommendations were valid.
9 Q You have mentioned the process undertaken by the
10 President's Commission to determine whether the
11 methodologies and recommendations of the Navy were
12 adequately supported. Were you involved in that process at
13 all?
14 A Yes, to the degree that there were questions that
15 the Commission submitted to the Navy to answer and we were
16 responsible for coordinating the answer to the questions.
17 Some of those questions were aimed at providing more
18 detailed information to satisfy the Commission as to degree
19 of analysis and documentation.
20 Q So, it is a fact to say that the documentation
21 was always there, but it simply wasn't presented in enough
22 detail to satisfy the President's Commission?

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Defendants.

CIVIL ACTION NO.

91-CV-4322

Hon. Ronald J. Buckwalter

Savannah, Georgia

September 20, 1991

Deposition of ADMIRAL PETER M. HEKMAN, JR.,

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1 is what was called the Advisory Board, I don't know.

2 BY MR. KAUFFMAN:

3 Q. Well, what is the Three Star Group?

4 A. That was Vice Admiral Smith's group.

5 Q. Who were the members of that?

6 A. There must have been 30. It included the

7 systems commanders, it included the three star officers

8 in the office of the CNO. OP-02, 03, 05, 08, the head

9 of it. 04, Logistics, plus Submarine, Surface,

10 Logistics, Aircraft, Carriers, and the Research and

11 Development Requirements. There was also included the

12 controller of the Navy and some of his staff.

13 Q. How about you; were you on it?

14 A. I was invited to attend when issues involving

15 my field of activity were discussed.

16 Q. And you were at that time as commander of

17 NAVSEA in charge of all naval shipyards in the United

18 States; is that right?

19 A. Amongst other things, yes.

20 Q. Amongst other things?

21 A. Yes.

22 Q. So whenever naval shipyards were being

1 discussed, you were invited?

2 A. Yes, I was.

3 Q. You think you were?

4 A. I was invited to the ones under Bill Smith

5 without fail. I wasn't able to attend every one because

6 I was on travel sometimes, and my deputy would go.

7 Q. You attest to that you were not told it was

8 too late in the process by the December 20th meeting to

9 make a change?

10 A. No.

11 Q. You weren't told that?

12 A. No.

13 Q. You do know, though, that by that time the

14 decision had been made to recommend the closure of

15 Philadelphia Shipyard?

16 A. No, I don't know that.

17 Q. You don't?

18 A. No.

19 Q. Well, you were told that before December 19,

20 1990, weren't you?

21 A. You mean, what is this, this is 12/20 of what

22 month? I don't know what month this is.

1 Q. Sure. They weren't finalized until February
2 of 1991, were they?
3 A. Something like that. It was very late in the
4 process when I finally saw those.
5 Q. Were you invited to appear before Ms.
6 Schafer's group?
7 A. One time.
8 Q. Approximately when was that?
9 A. I belief it was in January.
10 Q. Of '91?
11 A. Yes. It was either the first meeting that
12 that group had, or very close to that.
13 Q. And you gave your -- presented you views
14 there?
15 A. Yes, I did.
16 Q. Was it before or after January 11, '91?
17 A. I don't recall. I really don't. I don't
18 recall. I'm sure that Ms. Schafer's office has a record
19 of it, but I don't recall.
20 MR. KAUFFMAN: Mark as Hekman 5, a memo dated
21 January 11, 1991, Memorandum for the Deputy Chief of
22 Naval Operations, Subject: Philadelphia Naval Shipyard.

1 (Whereupon, a Memorandum, dated January 11,
2 1991, for the Deputy Chief of Naval Operations, Subject:
3 Philadelphia Naval Shipyard, was marked Hekman
4 Deposition Exhibit Number 5 for identification.)
5 BY MR. KAUFFMAN:
6 Q. I show you Hekman Number 5 and ask if you have
7 ever seen this document, sir. I direct your attention
8 particularly to Paragraph 1. Do you see that the --
9 A. Let me read it a minute.
10 Q. Of course. Of course.
11 A. If my memory serves me correctly, I did read
12 this. Even though it wasn't addressed to me, as I
13 recall, Admiral Clayman had a copy of this.
14 Q. You see the first paragraph. Just try to see
15 if it refreshes your recollection. It says, "NAVSEA has
16 recently requested OPNAC to consider a variation of
17 their position on the closure."
18 A. Yes. NAVSEA (SEA-07). That was Admiral
19 Clayman.
20 Q. And then it says, "NAVSEA may present this
21 position to the Base Closure Advisory Committee on 14
22 January 1991." So that this would indicate, sir, that

1 the Base Closure Advisory Committee was still operative
2 as of January 14, 1991?
3 A. I don't recall when they shut down. I don't
4 recall going to any meetings of that group after late
5 December.
6 Q. So you're saying you didn't --
7 A. They may have continued to have meetings where
8 they didn't have the systems commanders present. I
9 don't know. I don't recall going to a meeting of that
10 group after December.
11 Q. Okay.
12 A. But I do believe I did see a copy of this, and
13 I believe it was Admiral Clayman that showed it to me.
14 Again, it's an internal Naval Operations, Chief of Naval
15 Operations inside memo. Lang was OP-43.
16 Q. But you did appear before the Schafer Group
17 sometime?
18 A. That one time, yes.
19 Q. You believe that was in January of --
20 A. If my memory serves me, it was in January.
21 Q. Did you give them anything in writing?
22 A. I believe I gave them the same package that I

1 had given to Bill Smith's group, which was the paper
2 that showed the economic analysis of the yard and all
3 the work, and I believe you probably have a copy of
4 that, because I used it in all my briefing.
5 Q. Before I mark this let me show you this and
6 ask if this is what you are talking about?
7 A. Yes, this is it.
8 Q. Let me mark it then.
9 A. There are a lot of reiterations of this
10 because it was updated and constantly -- we started
11 writing this paper about --
12 Q. Unfortunately, this is not dated -- I'm
13 sorry. January 14, 1991, in the upper right-hand
14 corner. So, is this the --
15 A. Yeah. And the reason, and I have to tell you
16 why these were constantly being updated is because the
17 workload things were constantly changing. There were
18 being decisions made to scrap ships, to change overhaul
19 schedules, to do a lot of that, and that was a moving
20 target. And each time the issue came up again we had to
21 rework these various attachments and curves on here, and
22 then reword some of the things, but basically the

1 Q. I didn't think so. Okay. Were you ever asked
2 by any of the groups, either the early group or the
3 Schafer Group, either the Three Star Group or Schafer
4 Group, to go into any kind of explanation or detail
5 about the costs of closure of Philadelphia Naval
6 Shipyard?
7 A. I was asked to do the economic breakdown of
8 costs of closure, yes. And my staff and I worked those
9 up and we turned those numbers in.
10 Q. And that's what we looked at before?
11 A. Yes.
12 Q. Hekman Number 10, I believe.
13 A. Yes. But this wasn't the first time they were
14 turned in.
15 Q. That's Page Number 00000101, Hekman Number 10,
16 right?
17 A. Yes. However, they were known well before
18 this.
19 Q. Yes.
20 A. These view graphs are again, these are Xerox
21 copies of view graphs that had been used in repeated
22 briefings.

1 Q. To whom? Who did you give this to?
2 A. Every time I had to present my case to this
3 Three Star Group, or whatever, I had a package of those
4 view graphs that I would take along. And as questions
5 came up, I would present them and say here it is.
6 Q. Was it also presented to Schafer's group?
7 A. I didn't present it to Schafer's group. I
8 believe that Admiral Clayman did. From about early
9 January on, I no longer met with the Schafer Group.
10 When questions came up Admiral Clayman would go and meet
11 with them.
12 Q. Why is that?
13 A. Essentially they asked for him to come.
14 Q. They didn't want you there, right?
15 A. I'm not saying they didn't want me there.
16 Q. You were not invited to attend?
17 A. I was not invited to attend.
18 Q. Despite the fact that you were still commander
19 of NAVSEA Command?
20 A. That's true.
21 Q. They specifically asked for Admiral Clayman?
22 A. Yes, they did.

1 Q. Did you make a statement to the effect that
2 closing a shipyard will save no more than $5 million?
3 A. One of the points that I argued was that the
4 operating cost of the Philadelphia Naval Shipyard
5 averaged between $5 and $8 million, depending on if we
6 had to do any major maintenace work. And that the only
7 savings that would accrue from closure, if any, would
8 have to be taken from those operating funds.
9 There was a mistaken understanding that if we
10 didn't send ships there we would save the money that
11 would normally be spent to overhaul ships. And I said
12 that analysis was wrong. But that was the initial work
13 group's analysis. In order to understand that, you have
14 to understand how the Navy funds the Navy shipyards.
15 Q. How do they fund the Navy shipyards?
16 A. With a revolving fund set up by Congress
17 called the Navy Industrial Fund.
18 Q. Could you explain that, please, admiral?
19 A. The ship repair is conducted by the naval
20 shipyards and they were reimbursed quarterly by the
21 Fleet commander or by me in NAVSEA, if it's a slip or
22 SEN, but the revolving fund then is reimbursed. They

1 are paid out of this revolving fund, and then the
2 revolving fund is reimbursed. It's called the Navy
3 Industrial Fund.
4 Those are a different set of dollars. They
5 are administered by the Fleet commander. He could use
6 them to buy airplane fuel, ship fuel, ship overhauls, or
7 plane overhauls, whatever his priorities are. If he
8 puts it in the Navy shipyard, he must reimburse the
9 shipyard for the work they do. That's also the source
10 of the stabilized mandate rates, so he knows what he's
11 buying.
12 Q. Do you now what consideration was given to
13 closing any of the other seven naval shipyards in the
14 United States? Seven, in addition to Philadelphia Naval
15 Shipyard. Do you know what consideration was given to
16 closing any of those?
17 A. Are you asking if consideration was given?
18 Q. If, and what, and when?
19 A. All of the facilities Navywide were reviewed
20 for their further utility.
21 Q. By you?
22 A. By the group.

1 Q. NAVSEA?

2 A. By the group with Admiral Smith.

3 Q. Did you participate in that?

4 A. Yes, I did.

5 Q. And were you asked to participate, give your

6 recommendations with regard to all eight naval

7 shipyards?

8 A. I was asked to prepare information on all of

9 the yards, and I did do that. And they are similar to

10 this piece of paper you have here on Philadelphia.

11 Q. When did you do that?

12 A. I can't give you the exact date; sometime in

13 1990.

14 Q. Sometime in '90?

15 A. Yes.

16 Q. Was it the latter part of '90?

17 A. I would say closer to mid '90.

18 Q. And did you do the same kind of detail on all

19 eight yards as you did in Philadelphia?

20 A. Yes, I did.

21 Q. Did you reach -- did you make any

22 recommendation to close or realign any of the other

1 shipyards, other than Philadelphia?

2 A. I made no recommendations for closure.

3 Q. Did you make any recommendations to downsize

4 any of the other naval shipyards?

5 A. No. I indicated that the shipyards would

6 downsize in response to the workload of the Navy, and

7 that all of them would come down in size. My estimates

8 were that the total manpower for the Navy shipyards by

9 about 1994 would be in the neighborhood of 6,000 men,

10 but that we had need for all eight yards at that point

11 in time and we particularly needed the Philadelphia

12 drydocks.

13 Q. Could you expound just for a moment as to why

14 you believe that there was a particular need for the

15 Philadelphia Naval Shipyard drydocks?

16 A. Yes. The discussion centered around the

17 downsizing of the Navy, and the requirements for

18 facilities to meet the needs of the downsized Navy. And

19 my position was that the Navy will be downsizing, that's

20 a fact, but that the ships that I was building and

21 putting in commission were a lot larger and a lot more

22 capable than the ships that were being taken out of

1 overhead and then bid against the private sector in that
2 carryout. I never got permission to do that.
3 Q. But it is a fact that Newport News mandate
4 rates were considerably higher than Philadelphia Naval
5 Shipyard mandate rates, even when Newport News was asked
6 to do nonnuclear work?
7 A. That's true, again, because we required
8 Newport News to spread their mandate rates.
9 Q. Admiral, the Navy didn't react and respond too
10 well to the position you took with regard to the
11 Philadelphia Naval Shipyard, did they?
12 A. They listened to me.
13 Q. And they also punished you, didn't they?
14 A. No, they didn't.
15 Q. They didn't require you to retire early?
16 A. Oh, no. I was asked to retire several months
17 before this came up. CNO saw three years the job coming
18 up for me and his policy was that he didn't want to keep
19 people in position any more than a two- or three-year
20 period in command.
21 Q. Do you remember a telephone conversation you
22 had with a Mr. Alex Yellin on June 18, 1991?

1 A. I remember Mr. Yellin calling me, yeah.
2 Q. On or about June 18, 1991?
3 A. That could be. I don't know the date.
4 Q. Did you talk to him more than once?
5 A. I think he called me a couple of times, yeah,
6 maybe three times. I don't know.
7 Q. You refused to meet with Mr. Yellin, didn't
8 you?
9 A. That's right. I didn't want to meet with Mr.
10 Yellin.
11 Q. Why not?
12 A. I had made a decision not to -- I'd been asked
13 to testify in the Base Closure Commission. I had made a
14 decision not to testify for the Base Closure
15 Commission. It was a personal decision.
16 Mr. Yellin said he was working with the Base
17 Closure Commission, and he did ask me if he could
18 clarify some points on the phone, and I said, if it
19 comes to clarification, yes, I will try to clarify some
20 points for you.
21 And then it was basically, did you recommend
22 the following, and is this true, and are the drydocks

1 this deep and this wide. It is almost entirely within
2 the infrastructure, his questions, which dock will take
3 which kind of ship, and we spent most of our discussion
4 on that type of thing. It was almost entirely on
5 capabilities of the various yards.
6 Q. Isn't it true, admiral, that the Navy --
7 A. Now, I want to add one more thing. I was
8 aware of Mr. Yellin's background, the fact that he was a
9 civil engineer corps, naval officer, and familiar with
10 the language of the thing I was talking about.
11 Q. Isn't it a fact, admiral, that the Navy
12 punished you for your views expressed by you as
13 forcefully as you attempted to express them, relating to
14 the Philadelphia Naval Shipyard?
15 MR. GARVEY: Asked and answered. He answered
16 that they did not punish him.
17 THE WITNESS: No, that's not true.
18 MR. KAUFFMAN: I don't blame you for getting
19 nervous about that question.
20 MR. GARVEY: I have --
21 MR. KAUFFMAN: Well, I would appreciate it if
22 you would let the deposition just move properly.

1 MR. GARVEY: The deposition is moving
2 properly. I have a right to object, and that's not
3 interference, as far as I know.
4 BY MR. KAUFFMAN:
5 Q. Did you tell Mr. Yellin, sir, in your
6 telephone conversation with him that you were asked to
7 retire you believed in part because you persisted in
8 disagreeing with the decision to close the Philadelphia
9 Naval Shipyard?
10 A. No. I don't recall ever saying anything like
11 that to Mr. Yellin, nothing like that. No.
12 Q. Did you tell Mr. Yellin that you had intended
13 to testify at the Philadelphia Regional Hearing, but had
14 been asked by a senior Navy official not to testify?
15 A. No, I didn't tell him that. I told him I had
16 been asked to go to Philadelphia and appear at that. I
17 said I am scheduled to be on the West Coast during that
18 period of time and, moreover, it's something I don't
19 want to do.
20 Q. Did anyone tell you what Mr. Yellin had
21 written in this memorandum?
22 A. I have no idea what Mr. Yellin wrote. My only

1 contact with Mr. Yellin ever was on the telephone.
2 Q. Well, my question to you, sir, is did anyone
3 tell you Mr. Yellin has written that you said it?
4 A. No. No one has ever told me that.
5 Q. Up to right now you had no idea Mr. Yellin had
6 written that you told him that you were asked to retire
7 from the Navy because you persisted in disagreeing with
8 the decision to close the Philadelphia Naval Shipyard?
9 A. I have not known that until right now.
10 Q. And did anyone tell you that Mr. Yellin had
11 written that you intended to testify at the Philadelphia
12 Regional hearing but had been asked by a senior Navy
13 official not to testify?
14 A. No. I did not know he had said that, and I
15 certainly didn't say that.
16 Q. Do you know any reason why Mr. Yellin would
17 lie about that?
18 A. I have no idea. Maybe he misunderstood.
19 Q. You know Mr. Yellin was a staff person from
20 the Base Closure Commission?
21 A. He identified himself as such, yes.
22 Q. Did you tell Mr. Yellin that friends still

1 with the Navy told you that you were being accused
2 within the Navy of providing documents to Philadelphia
3 officials that were critical of the proposed closure?
4 A. I don't recall whether I said anything like
5 that to him or not. However, there was relayed to me in
6 a social conversation that there was someone in OPNAV
7 who was accusing me of turning documents over to the
8 Base Closure Commission. I don't remember who said it
9 to me. It was at a retirement ceremony for somebody.
10 And at the time I said that that isn't true.
11 Q. Because that would have been a terrible thing
12 to do?
13 A. I was convinced that I had given this my best
14 shot. My loyalty remained with the Navy, and with the
15 Secretary, and I felt that the process would move along,
16 and that if I were to stand up and testify that it would
17 -- I would sort of just be the float in the parade, and
18 people who I knew and respected would view that as
19 probably an unnecessary thing to do. I certainly felt
20 that it was. I have to tell you in all honesty that I
21 do not feel the Philadelphia Naval Shipyard will ever
22 close. And I have always felt that way from the

1 beginning.

2 Q. I hope you are right.

3 A. I have always felt it would not close, despite

4 all the rest, but I also felt that the Base Closure

5 Commission was going to give Mr. Cheney what he asked

6 for, regardless of what I or anyone else said.

7 Q. What caused you to feel that, sir?

8 A. He is a member of the club. That's sort of

9 the way I felt.

10 Q. Admiral, did you tell Mr. Yellin that you

11 believed that your opposition to the proposed closure

12 had and would continue to hurt your civilian employment

13 opportunities?

14 A. I don't remember saying that.

15 Q. Was it a fact?

16 A. The only -- no, of course not. No.

17 Q. But you don't remember whether you said that

18 to Mr. Yellin?

19 A. No, I don't remember saying anything like that

20 to Mr. Yellin.

21 Q. Do you remember that you didn't?

22 A. I don't see any reason why I could say it,

1 because it isn't true. My opposition to these things
2 are well known in the business community and I had a lot
3 of adherence in the business community, but it's also a
4 community I couldn't go to work in because of the ethics
5 rule.
6 Q. You were asked to retire early, weren't you?
7 A. I was asked to retire many months before this
8 came up. I had not announced it because I was asked not
9 to announce it until a relief was chosen.
10 Q. When were you asked to retire?
11 A. I don't remember the exact date, but it was,
12 as I recall, November.
13 Q. Of what year?
14 A. '90.
15 Q. Well, you had already made your views known
16 that the Philadelphia Naval Shipyard should remain open
17 by then, hadn't you?
18 A. I had, but this was a due course thing. The
19 CNO traditionally, after a person has been in a job a
20 couple of years, calls him in, flag officer said, you
21 know, I would like for you to request your retirement,
22 or he would call in and say I intend to move you on to

1 such and such a job, or whatever.

2 The Navy had been told to downsize by 25

3 percent in the flag officers, and I was an engineer and

4 material professional. There were no other billets for

5 me to go to, and I anticipated that he would ask me to

6 retire that year, and he did.

7 Q. How many years does a person normally serve as

8 commander of the NAVSEA Command?

9 A. Generally, about three. So he had asked me to

10 retire at my convenience, and I had verbally indicated

11 that I wished then to retire prior to the 1st of June.

12 My reasons for that were because of ethics law

13 that went into effect on the 1st of June, which would

14 have essentially eliminated any opportunites I would

15 have had to work for major industries that I had

16 contracts with, or with their subcontractors, the way

17 the law was written. And I had over 200,000 contracts a

18 year.

19 Q. Why were you asked to retire early?

20 A. I wasn't asked to retire early. I had

21 verbally asked for before the 1st of June. You have to

22 retire on the 1st of the month. I found out that the

1 bill was to go into effect on 1 June unless Congress
2 acted to stop it.
3 I asked the Chief of the Bureau, Admiral
4 Borda, if my retiring on the 1st of June, and I asked
5 also my legal staff, if my retiring on the 1st of June
6 would exempt me from that law. I was informed that it
7 would not.
8 So then I went to Admiral Borda and said, I
9 want a retire on the 1st of May. And then he said,
10 well, we haven't named a relief yet. You haven't
11 announced your retirement yet, and that is really going
12 to crowd me very much.
13 So I said, well, that's the date I want. So
14 he asked me to submit a letter which would essentially
15 place the decision on the Secretary of the Navy. He
16 also knew I wanted to retire on the 1st of May.
17 Q. How did he know that?
18 A. I had verbally discussed it with him. And you
19 have to be very careful in these areas, because anytime
20 you announce your retirement, there is a sort of a shark
21 feed that goes on by the people who want your job.
22 I had finally agreed, because of the

1 administrative areas that had to be taken care of, that
2 I would retire in July, but I had requested 1 May.
3 As a result of a discussion I had at the Navy
4 League, where I discussed the Navy acquisition programs,
5 and my continuing opposition to the implementation of
6 Goldwater-Nichols Act, as far as acquisition was
7 concerned, this got Secretary Atwood very stirred up.
8 And I don't know what transpired between he
9 and the Secretary of the Navy, but the Secretary of the
10 Navy said I had placed him in an embarrassing situation
11 with Secretary Atwood because of my resistance to the
12 implementation of the Defense Management Review.
13 My position was -- had been spoken. I had
14 been outspoken on that issue for over two years, but it
15 had a never been brought to Atwood's attention.
16 As result of that speech that I gave to the
17 Navy League, Secretary Howard informed me that I had put
18 Secretary Garrett in a very embarrassing position with
19 Secretary Cheney. So I said, would it help out if the
20 Secretary simply approved my request to retire on 1 May
21 like I originally asked. And he said, yes, it would.
22 So I said, well, then make it so. You have the request

1 there.

2 That had absolutely nothing to do with the

3 Philadelphia issue or with the Consolidation of

4 Laboratories issue, which was also in direct opposition

5 to Secretary Kahn. It had nothing to do with that.

6 Q. Can you think of any reason worldwide Mr.

7 Yellin would write that you told him that you were

8 forced to retire early because of your disagreement with

9 the decision to close the Philadelphia Naval Shipyard?

10 A. No. I don't recall saying that to Mr. Yellin,

11 and it's not true. It's not a factor.

12 Q. You have no idea why he would say such a

13 thing?

14 A. No, I don't, unless he misunderstood something

15 he heard from myself or someone else.

16 Q. And you never said that you believed that your

17 oppostion to the proposed closure of the Philadelphia

18 Naval Shipyard had and would continue to hurt your

19 civilian employment opportunities?

20 A. No. If anything, it would have enhanced it.

21 Q. When did you get the job that you now have?

22 A. I came here on the 1st of August.

1 Q. When did you get the job?

2 A. The morning that I announced my retirement I

3 received a call from Secretary Watkins asking me if I

4 would work for him.

5 Q. And that was when?

6 A. I announced my retirement in April. I

7 announced it in what, very early April, first of April,

8 latter part of May, something like that. I had been

9 hinting to my staff more or less for several months that

10 I was going to be leaving in the summer.

11 Q. Why did you turn over the command of NAVSEA

12 Command in April rather than continue as the commander

13 until your retirement date?

14 A. That was my decision.

15 Q. Why?

16 A. Because I needed some time, I needed some

17 leave time before I retired. I had a lot of personal

18 things to do. I would have been unable to do them, so I

19 got the Secretary's permission to do that.

20 Q. Did it have anything to do with the fact that

21 the Navy had decided not to invite you to meetings at

22 which you otherwise should have been, and invited one of

1 your subordinates to?

2 A. They invited Admiral Clayman. That committee

3 was inviting all of the people at Clayman's level in all

4 the discussions they had. I wasn't the only systems

5 commander who wasn't going.

6 Q. You were the only systems commander who had

7 expressed strong views who wasn't going, strong views in

8 opposition to the Navy view?

9 A. I think you are putting it in the wrong

10 context. What they had asked for were the people who

11 were the direct facility's oversight person. In my

12 case, Admiral Clayman; in the case of the ordinance

13 stations, it was Admiral Lang. And they were the ones

14 that went to these meetings. But I have to reiterate,

15 my leaving the Navy had nothing to do with the

16 Philadelphia Naval Shipyard.

17 Q. You are working for the government now?

18 A. Yes, I am. I'm here on an 18-month limited

19 appointment.

20 Q. Do you remember a conversation that you had

21 with a man by the name of William A. Angus, Jr.?

22 A. He wrote a couple of letters to me, and I

1 wrote a couple letters back to him. He misinterpreted a
2 letter apparently. I wrote him a letter that said you
3 misinterpreted. It had to do with retiring and the
4 three star rank. You misinterpreted what I tried to
5 tell you.
6 Q. Did you have a copy of that letter?
7 A. I don't think I do.
8 Q. It's been destroyed?
9 A. I typed him a letter. I don't recall keeping
10 a copy of it at all.
11 Q. Do you remember a telephone conversation with
12 Mr. William A. Angus, Jr.?
13 A. I remember talking to him on the phone. He
14 was a Chamber of Commerce person. He was the first
15 person who contacted me and tried to convince me to
16 testify before the Base Closure Commission.
17 Q. And you told him that you had been retired
18 early because of the views which you held concerning the
19 Philadelphia Naval Shipyard; isn't that correct?
20 A. I don't recall saying that to him. I don't.
21 I honestly don't.
22 Q. Do you know that he believed that you told him

1 that?

2 A. I can't put myself in his mind.

3 Q. You know that he wrote to the chairman of the

4 Base Closure Commission and Congressman Courter and told

5 him you had reported to him by telephone that you had

6 been retired early because of the views which you held?

7 A. Yes, and I corrected him on that.

8 Q. When?

9 A. I found out about it because he wrote me a

10 letter and said he had done that. So I contacted him

11 and I said, you made a mistake here.

12 Q. When was that?

13 A. I don't recall the exact date. It was in the

14 summer, but I was not following this very close. I was

15 all over the country being interviewed by a number of

16 industries and people on jobs, and I had told Albert

17 Watkins that I particularly wasn't very interested in

18 this position.

19 I didn't want to return to government work,

20 yet he kept pressuring me and pressuring me, and I

21 continued in the job search, and he finally called me in

22 one day and I laid some conditions down to him for this

1 job, and he said I can meet them all. So I said, all
2 right, I will come down here on an 18-month limited
3 appointment. That's the way I ended up here.
4 Q. Did you have other offers?
5 A. I had a lot of offers for interviews and I had
6 some fairly substantial measures beyond that. I had not
7 gotten any commitments, but, as you know, those things
8 normally take about a year, particularly for someone who
9 is looking for the jobs in the level of industry that I
10 was looking.
11 Q. Did you tell Mr. Angus that the Navy was
12 suspending decision conerning your retirement status
13 until after the Philadelphia hearings?
14 A. No, never said that.
15 Q. It is a fact though they did suspend your
16 retirement status until after the Philadelphia hearings?
17 A. I don't know if that's correct at all. All I
18 know is the Senate met and confirmed me in three star
19 rank for retirement in due course. Whenever the Senate
20 got together, they do it about the middle of the month,
21 and it was in the Congressional Report, the
22 Congressional Record. I don't know what the timing was

1 there. My sensitivity with this had absolutely nothing
2 to do with Philadelphia. My sensitivity with this had
3 to with Mr. Atwood.
4 Q. You told Senator Specter that you didn't
5 testify because you had been asked not to by a Navy
6 offical, didn't you?
7 A. Not true.
8 Q. You told him nothing like that?
9 A. I told him that I had been asked to testify.
10 I told him that I decided I did not want to testify but
11 that I had called Undersecretary Howard, informed him of
12 the request, and I said, my decision is not to testify,
13 but if you and the Secretary feel it's in the Navy's
14 good for me to testify, I will do so.
15 He said, our position is that your decision is
16 the correct one, but please call Secretary Schafer and
17 check it with her, because we've turned all that over to
18 her.
19 I called Secretary Schafer within a couple of
20 minutes of that call, told her what had transpired, told
21 her I had talked to the Undersecretary and said he has
22 deferred to you.

1 And she said, I see no reason why you should
2 testify. I endorse your decision not to, but let me
3 know if I can help you if you change your mind.
4 So then I called Secretary Howard back and
5 said Secretary Schafer agrees with what you told me. If
6 I ever change my mind I will let you know, but I won't
7 do it unless you know.
8 Now when Senator Specter called me, as I
9 recall the statement when he kept trying to get me to
10 testify, I said I have told Secretary Howard that I'm
11 not going to do it. If you feel that it's absolutely
12 vital, in the Navy's interest that I testify, then
13 please call Secretary Howard and you talk to him about
14 it. And that's what I said to him.
15 Q. You told him that Secretary Howard encouraged
16 you not to testify, didn't you?
17 A. No, I don't remember using those words. I
18 remember him saying that he agreed with my decision not
19 to testify.
20 Q. You told Secretary Howard, you are saying now,
21 that you had decided not to testify?
22 A. Right.

1 Q. And he encouraged you to do what you had
2 decided to do?
3 A. Well, okay. So that's my words, not his.
4 Maybe my use of the English language will differ from
5 yours. To me that means that he agreed.
6 Q. So he encouraged you not to testify?
7 A. Well, he agreed.
8 Q. He encouraged you not to testify; isn't that
9 correct? Is that correct, yes or no?
10 A. He didn't try to talk me into not testifying.
11 I interpret encouragement as trying to talk me into
12 something or talk me out of something. He didn't do
13 that at all.
14 Q. But he did encourage you not to testify?
15 A. No. That's my words. It was not his at all.
16 There was no discussion, there was no argument, nothing
17 back and forth. He simply -- I was simply letting him
18 know that I had been asked.
19 You see, the reason I wanted to find out was I
20 didn't know what kind of powers the Base Closure
21 Commission had. I didn't know if they had subpoena
22 powers. I didn't know what, and I was simply going to

1 him and saying I had made this request. I didn't know
2 if they could go subpoena me or whatever.
3 Q. Did either Mr. Howard, Secretary Howard, or
4 Secretary Schafer say to you they thought it would be a
5 good idea for you to testify?
6 A. No, they didn't.
7 Q. Did you ask them?
8 A. I asked them if they, in their opinion, felt
9 that it would be of service to the Navy for me to
10 testify, and they both told me they didn't think so,
11 that my decision not to do it, they felt, was mine.
12 Secretary Howard told me, he said, look, you
13 are a private citizen. You can do whatever you want.
14 But if your decision is not to do it, I'm not going to
15 argue with you. I think that's probably the correct
16 decision. But he deferred right away to Secretary
17 Schafer, and says, I'm not the one to say. Call
18 Secretary Schafer. It's her issue. If you can help
19 her, fine.
20 Q. You told both of them that if they wanted you
21 to testify, you would?
22 A. I would, yes.

1 Q. Your loyalty is to the Navy?
2 A. Yes.
3 Q. Not to the country?
4 A. Now, wait a minute.
5 Q. Well, what is it?
6 A. My loyalty is to the nation.
7 Q. That isn't what you said though.
8 A. I also have loyalty to the Navy, but my
9 loyalty is to the nation. I have loyalty to the purpose
10 of Navy. I don't have loyalty to individuals in it
11 necessarily, but certainly to its purpose. Its purpose
12 is consistent with the national interest.
13 Q. And its purpose was to close the Philadelphia
14 Naval Shipyard, right?
15 A. If the Secretary of Navy felt, and I don't
16 know what his mind told him that that was in the Navy's
17 best interest. That was his position. That it
18 disagreed with mine, so be it.
19 Q. And you owed him loyalty?
20 A. But I also felt that I owed the Navy and the
21 country loyalty by continually speaking out on these
22 issues.

1 Q. But you refused to testify before the
2 Commission?
3 A. I closed the issue at that point.
4 Q. You said in your letter to the Philadelphia
5 Inquirer that you were convinced and remain so that your
6 testifying before the Base Closure Commission would
7 alter nothing?
8 A. That's true.
9 Q. What convinced you of that?
10 A. I felt, and have always felt, as I stated
11 earlier, the Philadelphia Shipyard is not going to
12 close. I have always felt that Congress in the end will
13 stop the Navy from doing what I consider to be an unwise
14 thing. And I still feel that way today. They have done
15 it in the past and they will do it in the future.
16 Q. Why were you convinced that your testifying
17 before the Commission would alter nothing?
18 A. Because I felt that the Commission was going
19 to give Secretary Cheney what he asked for.
20 Q. What made you believe that?
21 A. I already answered that question.
22 Q. Part of the club, is it?

1 A. Yes.

2 Q. And you thought that you would be jeopardizing

3 yourself if you did appear; isn't that right?

4 A. No, I was free to do whatever I wanted.

5 Q. Tell me, why did you not even agree to meet

6 with Mr. Yellin but just talk to him over the telephone?

7 A. I wanted to divorce myself with contact with

8 that committee on a personal basis.

9 Q. Why?

10 A. It simply was my decision to do it.

11 Q. Why?

12 A. I didn't feel that it was in my benefit to get

13 involved in it any further.

14 Q. Why?

15 A. Why create turmoil when you don't have to?

16 There is a time to create turmoil and there is a time

17 not to.

18 Q. How would you create turmoil?

19 A. Well, Washington is a town that exists largely

20 on rumor, social conversation and the like. I hung up

21 my uniform the 1st of May and I haven't looked at it

22 since, and that's true. And I felt I had a new career

1 to pursue and I was pursuing it. And I just felt that
2 there would be no value added to me or anyone else by me
3 going in and testifying.
4 Q. You thought that it would cause turmoil for
5 you to appear before the Commission and tell the truth
6 about the way you felt?
7 A. It would have caused turmoil in my personal
8 agenda, which was very ambitious and it was very
9 expensive. Nobody was flying me around the country and
10 it was just something that I just didn't want to burden
11 myself with any more.
12 Q. I still want to know how you think it would
13 cause turmoil if you came and testified about the truth
14 to the Commission?
15 MR. GARVEY: I think Admiral Hekman has
16 answered that as best he can.
17 MR. KAUFFMAN: I don't think you know what --
18 MR. GARVEY: Objection --
19 MR. KAUFFMAN: I ask you again to stop
20 interfering with this deposition.
21 MR. GARVEY: I can object to this deposition
22 when I please, when I believe it to be in the best

1 interest of Admiral Hekman in his testimony here. If
2 you have asked the question which you have asked now
3 about --
4 MR. KAUFFMAN: The record will speak for
5 itself now, and you are trying to interrupt and
6 interfere with this deposition, and I take offense with
7 that.
8 MR. GARVEY: You can take all the offense you
9 want. When an objection is proper, it's proper.
10 MR. KAUFFMAN: This one is improper.
11 MR. GARVEY: You've asked the question and
12 it's been answered.
13 MR. KAUFFMAN: It hasn't been fully answered,
14 and you know it.
15 MR. GARVEY: It's been answered to the best of
16 his ability.
17 MR. KAUFFMAN: The admiral hasn't said that.
18 I'm trying to get the admiral's feelings, and I think
19 he's entitled to give his answer without your
20 interference, and I know I'm entitled to it, and I ask
21 you again to stop interfering with this deposition.
22 MR. GARVEY: And I am objecting to your

1 characterization of simply proposing an objection to an
2 improper question to be inference. If you have anything
3 further to say, we will let the Judge decide that. If
4 you have anything further to say.
5 BY MR. KAUFFMAN:
6 Q. Admiral, to make it clear, what I'm asking you
7 is how you felt in coming before the Commission and
8 stating your well thought out, your well reasoned, your
9 well documented position with regard to the Philadelphia
10 Naval Shipyard would cause turmoil?
11 A. It would cause turmoil in my own personal
12 affairs. I didn't have the time for it, and I didn't
13 feel that it would add any benefit, and I didn't want to
14 go through that experience again.
15 Q. Why didn't you think it would have any
16 benefit?
17 A. Because I felt that the conclusions were for
18 foreordained.
19 Q. Thank you, sir.
20 Could we mark -- I'd like to show you -- we
21 marked this as Courter 3, a series of documents. I'd
22 like to mark them in your deposition, sir, as Hekman 14.

1 (Whereupon, an eight-page document, dated May
2 17, 1991, to The Honorable Jim Courter, was marked
3 Hekman Deposition Exhibit Number 14 for identification.)
4 BY MR. KAUFFMAN:
5 Q. The first document -- this is consisting of
6 eight pages. The first page is a letter dated May 17,
7 1991, from Mr. William A. Angus, Director, Chamber of
8 Commerce of Southern New Jersey to the Honorable Jim
9 Courter.
10 A. He sent a copy of this to me.
11 Q. Yes. You anticipated my next question.
12 A. I wrote him a letter back saying he had
13 misunderstood and that I asked him to correct this, that
14 this is not true.
15 Q. When you say correct this, what are you
16 referring to?
17 A. The statement, "He was most candid in further
18 adding that he had been, quote, retired early, because
19 of views which he held and he wanted us to know this
20 before concluding" -- I explained to you I had wanted to
21 retire on the 1st of May. The Navy was having
22 difficulty meeting my request. I had agreed to delay it

1 until July.

2 I had made comments totally unrelated to the

3 Philadelphia Naval Shipyard in a speech to the Navy

4 League concerning the implementation of the Defense

5 Management Review and the implementation of the

6 acquisition work force which I felt were -- went well

7 beyond the Goldwater-Nichols Act and, moreover, were not

8 good for -- not in the best interest of the services.

9 And that is what I was referring to when I

10 talked to whoever this was, Mr. Angus, and it had

11 nothing to do with the shipyard issue.

12 Q. In the fifth paragraph of Hekman 14, Mr. Angus

13 writes to Congressman Courter, "Unfortunately he,"

14 referring to you, sir, "will be far away from Washington

15 and Philadelphia on May 24th on a new position

16 interview."

17 A. Those are his words.

18 Q. Yes. "The admiral reflected this was most

19 important inasmuch as many doors have been closed to

20 him, apparently because of his posture on certain issues

21 within the Navy and DOD. He would be able to keep the

22 May 22nd appearance in Washington, and he asked if I

1 knew just what the conduct of that hearing would be."
2 Did you say those things?
3 A. At the time, he asked me if May 22nd was a
4 clear date on my calendar. I said yes. The 22nd was
5 clear date on my calendar at that time. I did not know
6 at this time what kind of conditions the Closure
7 Commission worked under. I didn't know whether they
8 could subpoena me or whether they could make me come
9 talk to them. I was going to be away, as I said. He
10 wanted me to in be in Philadelphia and it was
11 impossible. I couldn't.
12 Q. Other --
13 A. I have no recollection of ever saying to that
14 man that doors were being closed to me.
15 Q. Did you say that in your letter to him?
16 A. I don't recall, and I don't have a copy of the
17 letter.
18 Q. Did you say in your letter to him that you
19 would not be able to make a May 22nd appearance in
20 Washington?
21 A. I don't recall whether I said that, because
22 this was a very busy time and I was scheduling and

1 rescheduling interviews and meetings.

2 Q. Did you tell Mr. Angus that you had yet to be

3 advised of your permanent retirement status and there is

4 little doubt as to why this might be held up at the

5 present time?

6 A. I told him I had yet to be advised of

7 retirement status, but I don't remember saying anything

8 about any doubt as to why. The reason was the Senate

9 wasn't going to be meeting on it until the middle of the

10 month. And the reason I didn't want to make an issue

11 here was because that nomination had to go through Mr.

12 Atwood.

13 Q. So you didn't want to make any waves, right?

14 A. I didn't want a high profile at all during

15 that period of time, no. It was not in my interest to

16 be in any high profile during that time.

17 Q. Because it might affect your permanent

18 retirement status?

19 A. Well, I don't know whether it would or not.

20 Q. Your employment status?

21 A. My permanent retirement status had to go

22 through Mr. Atwood. Mr. Atwood was rather unhappy with

1 me when he found out that for two years I had been
2 speaking out against his Defense Management Reform.
3 Q. Why did you even mention to Mr. Angus anything
4 about your permanent retirement if it didn't have
5 anything to do with the Philadelphia Naval Shipyard --
6 A. It had to do with the fact that I didn't want
7 to be in headlines in the papers or on CSpan. When I
8 said I had compelling personal reasons for not wanting
9 to do this, I had compelling personal reasons.
10 Q. And that was you were concerned about the
11 effect that it would have on your permanent retirement
12 status?
13 A. I was concerned about the effect that any kind
14 of public appearance where I was at odds with the
15 Administration could possibly have, because the process
16 had to go through the office of the Secretary of
17 Defense, and that was the only place where there was any
18 opposition to me, if you will, was in the office of the
19 Secretary of Defense.
20 Q. I'd like you to please look at the last two
21 pages of Hekman 14, and I would like you to please read
22 -- these from pages marked at the top 131 and 132,

1 memorandum for the record. This comes from the records
2 of the Base Closure Commission and this is what Alex
3 Yellin said about you with regard to a phone
4 conversation he said he had with you on June 18, 1991.
5 I would like to get your reaction to this.
6 A. The first paragraph is true. The second
7 paragraph is not true.
8 Q. I take it you --
9 A. The third paragraph is not true. I never said
10 this.
11 Q. Did you ever see this document?
12 A. No, I have never seen this document.
13 Q. Up to and including this very moment?
14 A. This is first time I've seen it.
15 Q. Did you discuss your retirement in any way,
16 shape or form with Mr. Yellin?
17 A. I don't recall discussing it with him at all.
18 Q. How would he know that you retired early?
19 A. I don't know.
20 Q. Did you discuss with him during --
21 A. See, the paper said I had retired early. I
22 didn't said I did, the papers did. There were articles

1 in the Post. There were articles in all the Yellow
2 Sheets, as I call them, inside the Pentagon, inside the
3 Navy.
4 Q. Did you discuss your testifying or not
5 testifying with Mr. Yellin, testifying before the
6 Commission?
7 A. I told him I did not want to testify before
8 the Commission.
9 Q. You didn't say you had intended to testify but
10 had been asked by a senior Navy official not to testify?
11 A. No. Absolutely not.
12 Q. Nothing similar or like that?
13 A. No.
14 Q. Nothing of similar substance, if not the same
15 words?
16 A. I may have mentioned to him my conversation
17 that I had informed the Navy I intended not to testify.
18 Q. And that you were encourage not to by Mr.
19 Howard?
20 A. No, no. I don't remember saying that at all.
21 Q. You don't think you said that to him?
22 A. No. Mr. Yellin and I talked about facts about

1 shipyards.

2 Q. You can't imagine then what would motivate Mr.

3 Yellin to say this?

4 A. I can't. I did tell him that I would be -- he

5 asked me if I would accept phone calls from Commission

6 members, and I said I would, and Secretary Ball did call

7 me.

8 Q. When did he call you?

9 A. I can't remember the date. It was during the

10 hearings.

11 Q. Did you tell him your feelings?

12 A. He asked me, he said I'm calling you to find

13 out some facts, some data on some facts. And he had

14 some facts on shipyard drydock sizes, and on various

15 things like that, and he asked me if I could confirm

16 some of those facts. And so I confirmed them as best I

17 could.

18 Q. Is that all he said to you?

19 A. Yeah.

20 Q. Do you recall anything else in this

21 conversation?

22 A. With Secretary Ball?

1 Q. Yes.

2 A. He asked me how I felt about the shipyard in

3 Philadelphia. I said I feel today like I have always

4 felt, that the Navy needs to build up the shipyard in a

5 downsize fashion until the future develops what the

6 future will be.

7 Q. Did Mr. Ball ask you to come and testify

8 before the Commission?

9 A. No, he did not.

10 Q. Did he say anything -- did you talk about

11 testifying at all?

12 A. No.

13 Q. Did you tell him why you didn't testify?

14 A. No. The subject didn't come up at all, as I

15 recall, with Secretary Ball.

16 Q. So he was just asking you to confirm some

17 facts. He didn't ask you to give him any facts?

18 A. No. He was asking for some confirmation. He

19 said, I want to confirm some things.

20 Q. Can you recall what he asked you to confirm?

21 A. One of the issues he asked me to confirm was

22 the proposal that carriers could be docked in the

1 construction yards at Newport News.

2 And I told him that was erroneous, that those

3 docks are too shallow. We build carriers, but unless we

4 get them out of those docks before they're 70 percent

5 complete, you can't get them out.

6 He said, that's news to me. I was under the

7 understanding that you could put carriers in those

8 docks. But I believe that's probably the only -- we

9 discussed Pearl Harbor Dock, the fact that you could put

10 a carrier at the dock, but you are constrained with the

11 cranes.

12 We discussed the Long Beach Dock, and the fact

13 that it can take a NIMITZ-class carrier. And that I had

14 commenced in '88 to fix -- to get that dock prepared

15 from a power standpoint, et cetera, to be able to do

16 that, because I knew of the imminent loss of Hunter's

17 Point Dock in 1990, and I essentially went drydock by

18 drydock with him up and down both coasts.

19 He, having been Secretary of the Navy, was

20 quite familiar with the subject and basically

21 reaffirming what he had apparently in front of him. I

22 don't know. As I recall, he called me on a -- I think

1 it was a Sunday morning.

2 Q. Other than what you referred to a moment ago

3 with relation to the Newport News drydocks, did

4 Secretary Ball have any other erroneous information?

5 A. Not that I can recall. I don't think so.

6 Q. Did he ask you if you had anything to add, any

7 other facts you wanted to add to tell him?

8 A. Yes, I think he did, and I responded there was

9 nothing more to add.

10 Q. Did you ask him whether he had seen any of

11 your studies or documents taking the position which you

12 took that we marked here today?

13 A. No, I don't recall asking him that. It was

14 obvious from the phone call he had seen a lot of

15 documents.

16 Q. Not obviously had seen your documents though?

17 A. I don't know what he had seen. He obviously

18 had a lot of information.

19 Q. A lot of information, but it wasn't obvious

20 that he had seen your position papers, so to speak?

21 A. It wasn't obvious to me, no, but he didn't

22 tell me he was talking from my papers or anybody else's.

OFFICIAL TRANSCRIPT
BEFORE THE

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SENATOR ARLEN SPECTER, et al,

Plaintiffs,

v.

H. LAWRENCE GARRETT, III, et al,

Defendants.

CIVIL ACTION NO.

91-CV-4322

Hon. Ronald J. Buckwalter

Washington, D.C.
Friday, September 20, 1991

Deposition of PAUL HIRSCH

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1 please let me know and we can take a short adjournment.
2 Do you understand that?
3 A. Yes.
4 Q. Are you familiar with the President's Defense
5 Base Closure and Realignment Commission?
6 A. Yes, I am.
7 Q. And did you have a position with respect to
8 that Commission?
9 A. Yes, I served as the director of reviewing and
10 analysis for the Defense Base Closure and Realignment
11 Commission.
12 Q. When did you begin that position?
13 A. Roughly around April 22nd, 23rd, officially.
14 Q. And unofficially?
15 A. It started about a week and a half earlier,
16 attended the initial hearing with Secretary Cheney, that
17 he was the witness at, and at that time I was working
18 for the Department of State and came over and took an
19 annual leave from the State Department and sat in at
20 that hearing.
21 Q. How long had you been with the Department of
22 State?

1 responsibilities as director of review and analysis for
2 the Defense Based Closure and Realignment Commission
3 were?
4 A. I felt my duties were to ensure that a proper
5 and credible review and analysis of the proposed closure
6 and realignment list that was forwarded by the Secretary
7 of Defense, was accomplished.
8 Q. Are there any standards against which your
9 work was judged or was going to be judged to your
10 knowledge?
11 A. Well, as you probably know, there are eight
12 criteria laid out by the Department in conjunction with
13 Congress. Also, there was a Force Structure Plan, so
14 the closures had to be considered against the eight
15 criteria and the Force Structure Plan.
16 Q. Did you have a staff working for you?
17 A. Yes.
18 Q. How many members were on that staff?
19 A. Approximately 25.
20 Q. Were they broken down into any groups or
21 divisions?
22 A. The way we set up, my organization, the review

1 and analysis organization, was set up with four teams.
2 Teams 1 through 3 were charged -- each team looked at --
3 like, for example, there was a Navy team that did
4 analysis on the Navy proposal. There was an Army team
5 that did an analysis of the Army and an Air Force team
6 that did an analysis of the Air Force. And then we had
7 a fourth team which we called the Special Team which
8 looked at the criteria 5 through 8 of the eight
9 criteria, which had to do with economics, environmental,
10 property utilization and cost of closure and
11 realignment.
12 In addition to that, I had a deputy director
13 of review and analysis as well as a gentleman from GAO,
14 Vic Zangla, who was the senior GAO representative on
15 staff. There were four GAO personnel detailed to the
16 Commission staff and Vic acted as a deputy also.
17 Now, the composition of each of the four
18 teams -- let me give you the composition of the three
19 teams doing the analysis work. And I will give you the
20 Navy. The Navy team was headed by a direct hire
21 civilian. On his staff was another direct hire civilian
22 doing analysis work. We had a captain, Navy captain and

1 a Navy commander and a GAO representative.
2 Q. Who was the direct hire civilian to whom you
3 referred?
4 A. I will give you the names of all those people
5 if you would like me to.
6 Q. Yes, if you would.
7 A. Alex Yellin was the team leader. John Patrick
8 was the other direct hire civilian. The Navy captain
9 was Captain Vernon. The Navy commander was John Hart
10 and the GAO representative was Marv Casterline.
11 Q. Is it fair to say that the Navy team and the
12 Army team and the Air Force team worked independently of
13 one another?
14 A. State that question again.
15 Q. Is it fair to say that the Navy team and the
16 Army team and the Air Force team worked independently of
17 one another or did they coordinate efforts in some
18 fashion?
19 A. The responsibility of each of those three
20 teams was for the review and analysis of that particular
21 service that they were looking at. However, there was
22 constant cross-talk between the team leaders and team

1 of data concerning naval installations that Mr. Yellin
2 had supplied to you or anyone else?
3 A. The Navy as well as the communities, private
4 individuals, members of Congress, provided us lots and
5 lots and lots of data that was looked at. Would I go
6 down and number crunch? No. The number crunching, the
7 actual review was left up to the Service teams, was
8 backbriefed to myself, Mr. Borden, Mr. Zangla. We did
9 not actually do specific -- I did not actually do
10 specific number crunching. That was left up to our
11 teams to do that.
12 Also, in addition we had GAO intimately
13 involved in our process and they assisted us on a
14 significant amount of looking at the validity and
15 verification of numbers of data.
16 Q. You said four GAO personnel were detailed to
17 your staff?
18 A. That's correct. The way they were set up was
19 that one -- Vic Zangla was the overall working GAO
20 member and he worked directly to me. The other three
21 members were assigned one each to the three Service
22 teams.

1 We didn't talk about the fourth team that we
2 had set up and I would like to make a point of that
3 right now.
4 We utilized other government detailees on the
5 fourth team. We had an economist from FEMA, Federal
6 Emergency Management Agency. We had environmentalists
7 from EPA on our team. We had a DOD civilian who was
8 involved in the costing of realignments and closures.
9 So we had a cross-section of government people, as well
10 as our direct hire personnel on the Commission staff.
11 Q. And the fourth team to which you make
12 reference is the Special Team?
13 A. That's correct.
14 Q. Would Mr. Yellin, in the course of his duties,
15 make presentations to you?
16 A. Presentations might be not the correct word.
17 We would have briefings and we would talk constantly
18 with myself, Mr. Borden, we would talk with Mr. Behrmann
19 over information that we were looking at and so
20 presentations sounds like a formal briefing but it was a
21 little less -- it wasn't formal like that.
22 We had numerous meetings, constantly talking

1 back and forth with team members and the team leaders to
2 understand what the Services were doing and whether the
3 information was valid that we were finding, the data we
4 were checking.
5 Q. And how would you ascertain if the data you
6 were checking were valid as you have just mentioned?
7 A. We went back to the source document. For
8 example, we sent GAO out to visit over 30 installations
9 and these are GAO regional people that we supplemented
10 our staff with. And in conjunction with their efforts
11 and the efforts of our consultant LMI, Logistics
12 Management Institute, found that the data -- went to the
13 source, in other words, and found data, for example,
14 square feet of warehousing space, square feet of
15 aircraft apron was, in fact, accurate information, also
16 utilized the services of real property data that they
17 had submitted to us, which is a basic source document
18 and checked those numbers against what was in the
19 detailed analysis that was provided as part of the
20 closure recommendations.
21 Q. And those detailed analyses were provided by
22 the Army, Air Force and Navy?

1 Q. Did you ever make an attempt to ascertain or
2 direct anyone to make an attempt to ascertain whether
3 that data was accurate?
4 A. As I stated earlier, we utilized not only our
5 own staff to ascertain whether the individual attributes
6 and characteristics that they used were correct, but
7 that we utilized Logistics Management Institute and,
8 more importantly, utilized the offices of the regional
9 GAO's to look at data.
10 Q. But did you personally ever ascertain or
11 direct anyone to ascertain specifically whether or not
12 the data used by the Navy in its detailed analysis was
13 accurate?
14 A. The answer is yes.
15 Q. And did you ascertain it yourself or did you
16 direct someone else to?
17 A. I directed.
18 Q. And whom did you direct?
19 A. I think we are going around the poll here a
20 little bit. We sat down with -- I sat down with my
21 deputies, my team leader for the Navy, Logistics
22 Management Institute, and directed that they work with

1 GAO, the regional offices, to go out and verify and
2 check data to make sure the data that was used by the
3 Navy was, in fact, accurate data.
4 Q. You said it was necessary also to fill in some
5 gaps in information supplied by the Navy; is that
6 correct?
7 A. Yes.
8 Q. Did you direct someone specifically to do
9 that?
10 A. When we felt that there was some additional
11 documentation, notation required by the Navy to
12 substantiate their recommendations, we met on four
13 separate occasions with the Department of the Navy.
14 When I say we, it was Commission staff, Mr. Matt
15 Behrmann, the staff director, myself, Ben Borden, Vic
16 Zangla, Alex Yellin, two representatives of our
17 consultant, LMI, to sit down and let the Navy know that
18 their backup, their detailed information was not
19 sufficient. We didn't feel it was sufficient to justify
20 their closure recommendations, generally, and that
21 additional work would be required.
22 Q. Did these meetings to which you just referred

1 the gaps that your staff identified?

2 A. Well, there were a number of people. On the

3 Navy side, the meetings were with the BSC, the Base

4 Structure Committee. The first meeting, Assistant

5 Secretary Schafer attended, as well as the other five

6 members of the BSC and they had some support staff, who

7 I don't know who they were totally, all of them.

8 And so there were members of the BSC and I am

9 sure that they utilized their staffs to help get that

10 information, so it wasn't just one particular person.

11 Q. Do you recall if there were gaps in

12 information supplied by the Navy which pertained to

13 naval shipyards?

14 A. The best I recall, the gaps were not for

15 shipyard category, did not involve the shipyard

16 category.

17 Q. Do you recall what categories the gaps did

18 involve?

19 A. Training, pilot training, naval air stations

20 and that's not an all-inclusive list but those three

21 come to mind.

22 Q. So is it fair to say that as of late May 1991

1 your staff and you were satisfied with the information
2 that the Navy had made available with respect to the
3 shipyard category?
4 A. Not really.
5 Q. Could you explain what you mean?
6 A. Sure. The Navy did their initial analysis or
7 used as the basis for their analysis what is referred to
8 as a VCNO study or OPNAV study. You will probably hear
9 both of those terms.
10 That study was accomplished prior to the eight
11 criteria being published. So what the BSC, the Base
12 Structure Committee, did was they used that OPNAV study
13 as a basis and then had many of their own little
14 mini-hearings and briefings from their Navy personnel
15 and came up with their own grading system to grade, but
16 we felt what needed to be done was that a crosswalk
17 needed to be created that would take the
18 characteristics, the eight criteria and crosswalk from
19 the OPNAV study into the eight criteria.
20 So we sat down and told the Navy that at one
21 of these meetings. They provided that crosswalk. We
22 checked the crosswalk and came up with some differences

1 as to what we felt were valid codings and valid
2 evaluations of installations based on the criteria.
3 Q. The Navy supplied the crosswalk to which you
4 just referred?
5 A. Yes. We developed with the Navy the -- you
6 will have to ask Mr. Yellin as to what degree, but he
7 worked quite a bit with the Navy, as did LMI, on the
8 development of the skeleton crosswalk to list the
9 attributes, the original VCNO/OPNAV attributes and
10 crosswalk those into the criteria.
11 Q. You said you or your staff had some problem
12 with the codings and evaluations that the Navy had used
13 based on the VCNO or OPNAV study; is that right?
14 A. Yes.
15 Q. Do you recall what particular problems you or
16 your staff had with respect to the codings and
17 evaluations that the Navy had used on the basis of the
18 VCNO or OPNAV study?
19 A. I don't recall specifics. As I told you, I
20 was not only working Navy closures, I was working Army,
21 Air Force and Marine Corps closures. So the specifics
22 to that detail I would suggest that you ask Alex Yellin

1 have given them some information that they felt that the
2 Navy list needed to be changed.
3 Q. How long did the process of filling in the
4 gaps in the Navy's detailed analysis go on?
5 MR. GUTMAN: Let me object there. I don't
6 think the witness testified there were gaps in the
7 detailed analysis. You might want to rephrase your
8 question.
9 BY MR. DAVISH:
10 Q. Did you testify there were gaps in the
11 information used in the detailed analysis?
12 MR. GUTMAN: You said gaps in the detailed
13 analysis.
14 BY MR. DAVISH:
15 Q. What were the gaps to which you referred?
16 A. It was in the decision-making process, rather
17 than in the analysis.
18 Q. With respect to those gaps, how long did the
19 process last of attempting to fill those gaps by
20 information or analysis obtained by the Navy, from the
21 Navy?
22 A. For all three services, it started on the day

1 we started working and it ended almost right up to the
2 very time of the final deliberations because you have to
3 understand that we were not the only people looking for
4 information. The congressional offices were looking for
5 information for all -- this is all the services now,
6 across the board. The communities were looking for
7 information. The communities were providing us
8 information.
9 We met with communities all the time,
10 weekends, Sundays, met with members of Congress on all
11 hours to listen to what they had to say, to give us any
12 additional information that they may have found, any
13 additional information that communities may have found.
14 So we were always gathering information. So it is not
15 like we went over to the Navy or the Navy sent their
16 detailed analysis over. We went back and said we need
17 more information and that was the extent of our look.
18 We received -- we were like a clearinghouse
19 for information. We received so much information from
20 so many different sources that it is a constant, ongoing
21 process.
22 Q. And receiving that information with particular

1 Q. Do you know if the data received by your staff
2 was made available to persons who might be interested in
3 testifying at any of those open public hearings?
4 A. Say that again, I am sorry.
5 Q. Are you aware of whether the information your
6 staff received from the services was available to
7 persons who might be interested in testifying at those
8 open public hearings?
9 A. All information that we received as a
10 Commission was always available for the asking. A
11 private citizen, a member of Congress, a state official,
12 if they requested information, we provided information
13 to them.
14 Everything we had -- in other words, we were
15 an open book.
16 Q. Did members of the Commission itself preside
17 at those open public hearings?
18 A. Talking Commissioners?
19 Q. Commissioners.
20 A. Yes. I did not attend any -- are you talking
21 about the regional hearings and the base visit?
22 Q. Yes.

1 A. I did not attend any regional hearings or base
2 visits with Commissioners.
3 Q. But you know, in fact, that the Commissioners
4 did attend those regional hearings?
5 A. Regional hearings, I know, in fact,
6 Commissioners did attend.
7 Q. But with respect to the information that you
8 received from the Navy after those public hearings, you
9 can't be certain that that information was, in fact,
10 personally reviewed by any of the Commissioners
11 themselves; isn't that a fact?
12 MR. GUTMAN: Which public hearings are you
13 talking about now? Are we talking about the regional
14 hearings? As I understand it, there were two hearing
15 processes and I want to make sure we have identified the
16 correct hearing.
17 BY MR. DAVISH:
18 Q. In the case of hearing for the Philadelphia
19 Naval Shipyard occurring on May 24th, 1991 by your
20 recollection, isn't it a fact that Navy documentation
21 received after that time may not have been reviewed
22 personally by the Commissioners themselves?

1 A. I can't make a determination on that but let
2 me just respond to that anyway. We had a system that
3 was set up in our administration called executive
4 secretariat. And all information that came from outside
5 sources sent to the Commission was distributed to
6 Commissioners. Now, I can't tell you whether every
7 piece of document was seen by a Commissioner, I can't
8 tell you what a Commissioner saw, but sustained efforts
9 were made by our administrative people to ensure that
10 information was forwarded to Commissioners.
11 Additionally, information that we received was
12 briefed, the data was briefed on extensive matrix
13 briefing charts at the open and public hearings. So if
14 we had been given information relative to a naval air
15 station, a naval shipyard, an Air Force base that we got
16 from another source that pertained to the closure and
17 realignment, it was briefed at the open public hearings,
18 so Commissioners saw it in that form.
19 Q. But the Commissioners could only see the
20 information on those briefing charts, which had already
21 been made available?
22 A. Say that again, please?

1 Office concluded that the Navy had supplied inadequate
2 documentation of its recommendations for base closure?
3 A. Yes.
4 Q. Do you recall discussing that matter with any
5 GAO personnel or GAO people that were tasked to your
6 staff?
7 A. We talked about that with -- talked about it
8 with Vic Zangla, talked about it with the Navy team.
9 Q. Do you recall what in particular you said or
10 they said on that issue?
11 A. No, not the particulars, other than that the
12 review and analysis staff felt also -- without the GAO
13 report, we would have come up with a similar conclusion,
14 which obviously we came up with a very similar
15 conclusion, that the Navy needed to provide additional
16 documentation and explanation as to how they came up
17 with their final list of closures and realignments.
18 Q. Did you personally do anything specifically as
19 a result of the GAO report's conclusion that the Navy's
20 process was inadequately documented?
21 A. Well, as I mentioned earlier, we had four
22 meetings with the BSC and requested additional

1 documentation and written narratives as to how their
2 decision-making process flowed, something that we would
3 have as Commission staff felt was going to be a
4 requirement.
5 Q. You know what the Navy Base Structure
6 Committee was; is that right?
7 A. Yes, I do.
8 Q. And that was the body that prepared the Navy's
9 detailed analysis to which you have referred earlier; is
10 that right?
11 A. No. They did not prepare the detailed
12 analysis, I don't believe. I mean, you need to
13 differentiate for me. The Base Structure Committee and
14 the staff were headed by Admiral Drennon. There was a
15 lot of information that flowed in to the BSC. They
16 graded the installations, came out with grading systems,
17 so the BSC was the decision-making body.
18 Q. So to your knowledge the Navy Base Structure
19 Committee was the body charged with making final
20 recommendations as to closure and realignment of naval
21 installations, final recommendations to the Commission?
22 MR. MOORE: The statute speaks for itself on

1 decisions. We provided a broad array of information for
2 our Commissioners to make the decisions on.
3 Q. It is fair to say that your staff and the
4 staff of the Commission made available information and
5 data to the Commissioners upon which they could decide
6 whether to accept or reject or to modify the Department
7 of Defense's recommendations as to closure and
8 realignment?
9 A. Read that to me.
10 THE REPORTER: "Question: Is it fair to say
11 that your staff and the staff of the Commission made
12 available information and data to the Commissioners upon
13 which they could decide whether to accept or reject or
14 to modify the Department of Defense's recommendations as
15 to closure and realignment?"
16 THE WITNESS: Is it fair to say that whatever
17 information that we obtained, whether it was delivered
18 to us or we found it out through conversations or
19 whatever, we provided to the Commissioners so they had a
20 full array of information to make an informed judgment.
21 BY MR. DAVISH:
22 Q. And was that the principal task of the staff

1 work load and based on how many ships that need to be
2 repaired, how many ships are in the fleet, so it is all
3 tied together.
4 BY MR. DAVISH:
5 Q. Would it have been the duty or responsibility
6 of your Navy team to make an independent evaluation of
7 whether, for instance, there was excess capacity in the
8 area of shipyard, naval shipyard installations?
9 A. Commission staff looked at work load as to
10 what the Navy's projected work load was and presented
11 all that information to the Commissioners, as I said
12 earlier, in open hearings.
13 Q. And I am asking you was that an independent
14 evaluation they made, the Navy team made as to whether
15 it was excess capacity?
16 A. We looked into what the work load would be,
17 provided that data in public briefings to the
18 Commissioners to show what the work load would be and
19 the Commission made the decision that the Navy did not
20 require the eight current shipyards to perform that work
21 load to accomplish that work load.
22 Q. Was it the role or duty or responsibility of

OFFICIAL TRANSCRIPT
BEFORE THE

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SENATOR ARLEN SPECTER, et al.,

Plaintiffs,

v.

H. LAWRENCE GARRETT, III, et al.,

Defendants.

CIVIL ACTION NO.

91-CV-4322

Hon. Ronald J. Buckwalter

Washington, D.C.
Wednesday, September 18, 1991

Deposition of ADMIRAL JAMES RICHARD LANG

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WASHINGTON, D.C. 20005
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1 the Notary Public was examined and testified as follows:

2 EXAMINATION BY COUNSEL FOR PLAINTIFFS

3 BY MR. DAVISH:

4 Q. What is your current position?

5 A. Division Director, Ship Maintenance and

6 Modernization Division, Chief Naval Operations.

7 Q. How long have you held that position?

8 A. 2 years, 10 months.

9 Q. What position did you hold directly before that?

10 A. PMS-393, submarine acquisition program, Naval

11 Sea Systems Command, Arlington, Virginia.

12 Q. The Naval Sea Systems Command is NAVSEA?

13 A. Yes.

14 Q. When you said PMS, what does that stand for?

15 A. Programming office, submarine program office.

16 Q. What is O-43?

17 A. It is a division of the Chief of Naval

18 Operations, OPNAV staff.

19 Q. Are you in OP-43?

20 A. I am OP-43.

21 Q. To whom do you report?

22 A. Vice Admiral Loftus, OP-04.

1 A. No. From information that is obtained within
2 NAVSEA. The Naval Sea Systems Command is say the
3 corporate head of the eight naval shipyards and then that
4 information interface into the OPNAV arena would be
5 through me.
6 Q. So do you recollect information from NAVSEA?
7 A. Yes, that is what I am trying to tell you, that
8 the -- of all the information that is generated, if you
9 were looking for the source of it, you would have to go
10 back three or four steps into it. Specifically, you would
11 go back to the shipyards and it rolls up there in the
12 Naval Sea Systems Command and it rolls over there into the
13 Pentagon and that is where my role would be.
14 Q. So you are between NAVSEA and wherever that
15 information may go subsequently?
16 A. Right. But you also -- to characterize it,
17 NAVSEA also talks to other people other than me.
18 Q. Specifically with respect to shipyards?
19 A. Not so -- well, of course, you know, like when
20 you got a controller organization -- there are lots of
21 interfaces. I don't want to give you the impression that
22 the Naval Sea Systems Command never talks to anybody in

1 Q. Did OP-43 respond to requests from the Base
2 Structure Committee?
3 A. Base Structure Committee? By that I assume you
4 mean the Navy Department's committee that was created to
5 respond to create an answer for the Secretary of the Navy
6 before going on to the Secretary of Defense?
7 Q. That's correct.
8 A. That would be Mr. Nomfakos and my boss, Admiral
9 Loftus, I think was on that.
10 Q. Yes.
11 A. Yes. Would you restate your question again, now
12 that we have the right one down.
13 Q. My question is, did OP-43 respond to requests
14 from that Base Structure Committee?
15 A. Not very much. I mean, I went to a couple of
16 the meetings, but primarily in the case of naval
17 shipyards, they called in Admiral Hekman, Admiral Claman
18 and they really wanted to hear it right from the horse's
19 mouth, so to speak, to get the basic info that could
20 respond to the second and third level questions.
21 I mean, they spent hours and hours and hours in
22 meetings and they didn't really have -- they wanted

1 answers right then, there was just massive amounts of
2 information they were trying to collect and sort through.
3 Q. When you say they spent hours and hours and
4 hours in meetings, you are referring to the Base Structure
5 Committee?
6 A. Yes.
7 Q. And you only attended a small number of those
8 meetings?
9 A. Yes, a total of maybe 4 hours at the most, and
10 you know, when a shipyard's topic would be on, if I were
11 available. I wasn't required to be there, but I went to
12 some of them.
13 Q. So it was not part of the role of OP-43 in the
14 base closure process to recommend candidates for closures,
15 it that correct?
16 A. Well, as I recall, all eight Naval shipyards
17 were candidates for closure, that is part of the
18 legislation, that you had to go back and review all eight
19 of them, which we did, and we came up with a ranking
20 system that took the attributes of the eight, attributes
21 that were, as I recall the legislation required that the
22 bases be determined first, be submitted to Congress, which

1 they could change if they wanted and come back.

2 And we took those things and then delved that

3 down into a matrix type of form where an attribute, 8

4 naval shipyards and assigned values to those things to

5 come up with a ranking system per se. Yes, and that was

6 submitted.

7 Q. So you came up with a list of rankings of the

8 shipyards, is that right?

9 A. Yes.

10 Q. And the ranking was according to the military

11 value of the --

12 A. Well, according to the eight characteristics

13 that were required, as I say, we were required by Congress

14 to submit what those values would be and that is basically

15 what we did, mission and that type of thing.

16 Q. Did there ever come a time when OP-43 or you

17 recommended to any person that the Philadelphia Naval

18 Shipyard be closed?

19 A. As I recall, they were on the bottom of the list

20 or the top, whichever way you wanted to view it, if I

21 recall properly, I think our, I don't even know remember

22 there was a high number for closure, but one was there.

1 They were the one that was most, I guess, had the lowest
2 value I think of the Navy Department
3 Q. So it is fair to say that OP-43 ranked
4 Philadelphia Naval Shipyard last among shipyards but did
5 not, per se, recommend Philadelphia Naval Shipyard for
6 closure?
7 A. Well, the -- now the information was given in
8 that format and the fact that a naval shipyard was to be
9 or was not to be closed was in my mind the scheme overall,
10 basically since I have been in the job was to downsize all
11 eight naval shipyards and then when the work went away you
12 had to close one.
13 And if I had been asked, and I don't recall
14 specifically being asked, I would have said, yes, that it
15 ought to be shut down because the work wasn't there in the
16 latter part of this decade.
17 Q. So if you would have been asked, you would have
18 recommended closing the Philadelphia Naval Shipyard?
19 A. Yes.
20 Q. As opposed to downsizing all of the shipyards?
21 A. No. The plan was to downsize all of them and
22 then when the work went away, you closed one and in the

1 time frame of the Base Closure Commission, the work went
2 away in Philadelphia. And so, yes, I would recommend that
3 it be closed, just as I would say, within the next 10
4 years there is probably going to have to be another one
5 closed.
6 Q. So if I understand you correctly, you are saying
7 downsizing all of the shipyards as opposed to closing any
8 single one is okay until the point is reached where there
9 simply not enough work?
10 A. That is correct, and then it becomes, a jobs
11 program instead of an accomplishing work program.
12 Q. Was there any disagreement that you were aware
13 of in your organization or any other part of the Navy over
14 whether Philadelphia Naval Shipyard should have been
15 ranked at the bottom of the list of shipyards?
16 A. No. I really don't. In fact, I know that
17 Admiral Claman and I had discussions fairly late in the
18 process and he felt that some of the weights and some of
19 things weren't quite right, so we redid the numbers again
20 and they appeared exactly the -- Philadelphia was still on
21 the bottom.
22 Q. You said Admiral Claman thought the weights

1 weren't quite right?

2 A. He wanted more emphasis to the, felt that the

3 mission characteristics, I don't recall exactly what it

4 was, but it was something that made sense and I said,

5 fine, let's do it that way, even though his organization

6 had given us all that information, you know, the month

7 before and then maybe he hadn't reviewed it or whatever,

8 but he finally really looked, scrutinized and said, hey,

9 you know, some of these things don't stack up as well as

10 they should with the eight characteristics and I think

11 this and this and this ought to be done.

12 I said, fine, let's just do it. So we sat down

13 and did it all over again and came up the same way, which

14 you know, by and large, I guess that kind of made me feel

15 fairly reasonable in that, you know, changing even the

16 criteria a little bit, you still ended up with them at the

17 bottom.

18 Q. How did you change the criteria specifically?

19 A. I don't know. I think you probably got it in

20 your documents there someplace. I think there was a

21 letter that Admiral Claman and I signed, documented in the

22 process, that there were things that were changed.

1 question before answering it. Let him get the whole out
2 and then you will know exactly what you need to respond
3 to. I am sorry.
4 MR. DAVISH:
5 Q. So it is fair to say that the workload question
6 was the more important question in determining whether a
7 shipyard should be closed?
8 A. Well, it was the determining factor as far as
9 the, deviating from the downsizing into a closure posture.
10 This is the way I would characterize it. That represents
11 the time, in my job that I was there, it was in my mind,
12 it was always the plan to downsize. I mean, you had to.
13 How else can you, when you are going from 400 -- or
14 actually 600 ship Navy to a 550 to a 450, to a "to be
15 determined" number, something has got -- you got to
16 decrease.
17 And I think everybody understands that and
18 everybody supports that, that you can't -- if you are
19 going to maintain and retain all the shore infrastructure,
20 before long that is all you have, you don't any ships
21 left.
22 I think the lunacy of that kind of approach, to

1 Q. Do you recall what made you change your opinion
2 about downsizing versus closing the shipyard?
3 A. Well, the realization that we, as we take more
4 and more ships out of the Navy, there is less and less
5 work that has to be done. I mean, we went through some
6 very dramatic things in the last year-and-a-half,
7 battleships, all four being taken out of commission;
8 aircraft carriers going from 15 to 12; submarines, a whole
9 class of submarines, the 52 class destroyers. I mean,
10 there have been some significant force levels in the Navy.
11 Q. And these things occurred after May of 1990?
12 A. I don't recall what they are, I am just saying
13 in that time frame, that they -- lots of things are
14 happening, just like they are today.
15 Q. The fleet scheduling conference to which you
16 referred earlier month of the year does that normally
17 occur in?
18 A. Well, it depends on the budget. Sometimes it is
19 between April and June.
20 Q. Do you recall when it occurred in 1990?
21 A. No, I don't. I really don't.
22 Q. Is it fair to say that what happened at the

1 Loftus's opinion regarding whether the Philadelphia Naval
2 Shipyard should be closed altogether? I am just asking if
3 you were aware, not how you came to be aware.
4 A. No, I can't tie Admiral Loftus to a time frame,
5 okay. I know that Admiral Loftus today would feel that it
6 has to be shut down, whether that was in November,
7 December, January, February, March, April or whatever of
8 1991, I am sorry, I just can't tie that down.
9 Q. So NAVSEA was aware of the same data that you
10 were regarding workload?
11 A. Yes.
12 Q. And yet they came, according to your testimony,
13 to the opinion --
14 A. They had two options. One was to shut it down,
15 and one was the 1,200 man shipyard.
16 Q. And the preferred option was --
17 A. That was their opinion, that was their
18 recommendation, the Naval Sea Systems Command. You asked
19 me whether I agreed with them, and the answer is no. I
20 did not agree with them.
21 Q. But you were both looking at the same data and
22 analysis?

1 A. Yes.

2 Q. You just arrived at a different conclusion?

3 A. Yes.

4 Q. And you said that you had conversations with

5 Hines and Claman at NAVSEA at some point regarding whether

6 the Philadelphia Naval Shipyard should be closed?

7 A. Yes.

8 Q. And do you recall --

9 A. Admiral Claman relieved Admiral Hines. I don't

10 know what time that was.

11 Q. All right. With whomever you spoke in that

12 respect, do you recall what Hines or Claman's reasoning

13 was or grounds for their opinion that the Philadelphia

14 Naval Shipyard should be downsized to 1,200?

15 A. The primary reason was to provide a dependable

16 source of repairs of ships in the New York area is my best

17 recollection.

18 Q. And do you recall what your response to that

19 observation was?

20 A. As I recall, approximately a year before that

21 time, I don't even recall what the subject was, but for

22 some reason or another, we asked the question of CO-7,

1 A. That is correct.

2 Q. And did you do any further or different kind of

3 compilation of data or analysis of data with respect to

4 shipyard closure versus downsizing after you penned Lang 2

5 on or about October of 1990?

6 A. Oh, absolutely.

7 Q. What did you do?

8 A. We started all over again. As I remember, the

9 congressional base closure, there was a -- I don't know

10 what the date was, but I think it was after this date

11 where we were told to go and consider every facility that

12 we had in the Navy all over again. So we went back to

13 ground zero and I remember having meetings with my people

14 and saying, hey, these are the rules, let's go back to

15 ground zero and start all over again.

16 Q. Did you compile the data and perform the

17 analysis in the same fashion as you had previous to

18 October --

19 A. No. I mean, I sure the facts didn't change if

20 you take it, 2 years ago, a year ago, 6 months ago, there

21 was -- some of that stuff doesn't change, but the process

22 was -- had similarities, we got a shipyard, you got to

1 think of some ways to evaluate it. You write it down and
2 you go out and get the information and you compile it all
3 again and see how it stands.
4 Q. Can you recall in what respect the processes,
5 post, October before, versus before October were
6 different?
7 A. Well, you still have the Naval Sea Systems
8 Command. You still had OP-43. You still had eight Naval
9 shipyards. You still have information. You know, to
10 point out specific differences or whatever, I don't recall
11 what those exactly would be.
12 I do know that it was a, point again, just going
13 back to ground zero, we developed information and coming
14 up with some kind of ranking.
15 Q. Is it fair to say that Capt. Williams was the
16 person in your organization most responsible for compiling
17 data and performing analysis on shipyards in the closure
18 process?
19 A. Yes, he is the one who reports to me, yes. Mary
20 MacKinnon reports to him.
21 Q. So Capt. Williams and Ms. MacKinnon were the two
22 persons in your organization most responsible for the

1 A. No, I don't. It would be early in '89, '89 or
2 '90 time frame, early '90.
3 Q. Do you recall what Capt. Williams's opinion on
4 that issue was at any --
5 A. My best recollection is he agreed with the
6 overall plan to downsize and then close when the workload
7 went away.
8 Q. And did there come a time when Capt. Williams
9 came to hold the opinion that closing the Philadelphia
10 Naval Shipyard was the preferable option versus
11 downsizing?
12 A. Yes.
13 Q. Do you recall when that was?
14 A. No, I don't.
15 Q. It is a fact, isn't it that the nuclear
16 shipyards were excluded from further review for closure on
17 the basis of the fact that they were nuclear?
18 A. No. That is not a fact. We considered all
19 Naval shipyards for closures. After the bill was passed by
20 the Congress, we went back and looked at all eight Naval
21 shipyards.
22 Q. So there was active consideration given to

1 closing a nuclear shipyard?

2 A. Yes. There is today. I mean, we were told to

3 look at all eight. We had to look at all eight.

4 Q. Are nuclear shipyards more expensive to run that

5 conventional shipyards?

6 A. I am not convinced of that.

7 Q. Is it a widely held opinion that they are?

8 A. Some people feel that way, yes.

9 Q. Isn't there objective data that you can measure

10 that?

11 A. Well, it is difficult to come by in a clear and

12 convincing manner, at least as far as I am concerned

13 because nuclear shipyards also do conventional work.

14 Q. Do you know approximately --

15 A. You take a shipyard like Norfolk that does both

16 non-nuclear and nuclear work, there are shipyards that

17 only do nuclear work.

18 Q. How many are they?

19 A. Portsmouth, Mare Island.

20 Q. And they do no conventional work whatsoever?

21 A. Well, Mare Island does do some every once in

22 awhile, but it is primarily submarine oriented shipyards.

1 Q. So with respect to the remaining nuclear
2 shipyards, other than Mare Island and Portsmouth, could
3 you estimate what percentage of the work they do on Naval
4 vessels is conventional versus nuclear?
5 A. We have those numbers, I don't recall them.
6 Q. Do you recall if it is in the neighborhood of
7 50/50 or if their --
8 A. 50/50 would be -- it changes from year to year.
9 It really does. You take a conventional aircraft carrier,
10 as opposed to having no aircraft carriers there or a
11 nuclear aircraft carrier, that could swing the whole
12 thing. But half, that would be a fair starting point, I
13 guess, in some years.
14 Like Norfolk, I would say probably last year
15 maybe 10 percent was nuclear work. This next year it will
16 probably be 70 percent, because they -- the South Carolina
17 refueling and overhaul will start. That is why it is so
18 hard to make blanket statements like nuclear work cost
19 more, but it does take more people. It takes more skills
20 and different skills.
21 Q. The nuclear work takes more skills?
22 A. Well, you've got to deal with radioactivity.

1 Q. Are you aware that at any time a determination
2 was made by anybody that nuclear shipyards would not be
3 closed, solely because they were nuclear shipyards?
4 A. No. I wasn't aware of that. I am aware that
5 when asked the question, sometime in one of the budget
6 process I was asked, do we need all six naval shipyards
7 and in looking at the future workload to 1999, 2000, that
8 it was clear to me that we did, in fact, need those naval
9 shipyards.
10 Q. When you say those naval shipyards?
11 A. They had work.
12 Q. And were you referring specifically to the
13 nuclear naval shipyards?
14 A. I'm referring specifically to Puget, Mare
15 Island, Portsmouth, Norfolk, and Charleston.
16 Q. Which are the nuclear naval shipyards?
17 A. They are five of them, yes. You see, in my mind
18 Pearl Harbor is also a nuclear shipyard, but its strategic
19 location almost puts it into a separate category, by
20 itself.
21 Q. That is, it shouldn't be a candidate for
22 closure?

1 rankings that they presented to you along the way?
2 A. No. There was just the data with a result.
3 Q. So it was one final product?
4 A. As best I can recall.
5 Q. And, presumably, after that presentation of the
6 final product to you, Williams and MacKinnon no longer
7 were engaged in compiling data or analyzing.
8 A. No. We were engaged in that the whole time.
9 Anytime you had a list like that, then it would go to
10 somebody and they would have a question, and you'd go to
11 somebody else and they would have some questions. And
12 also, you've got to realize that Williams and MacKinnon
13 didn't sit back there and dream all this stuff up. They
14 --
15 Basically NAVSEA was doing all the paper work,
16 you know, a lot of the gathering it from each of the
17 individual shipyards and from their records that they had,
18 and then they would look at the data and make
19 observations, asked additional questions.
20 Q. Did there ever come a time in the post-new Act
21 time frame when you questioned the accuracy of any data --
22 A. Absolutely.

1 Q. -- that Williams and MacKinnon presented to you?
2 A. Well, I mean, yes. We were continuously looking
3 at data. Whether it specifically bore on this ranking or
4 not -- I'm not sure of the question --
5 When we quickly got into submitting the report
6 mode to the Base Closure Commission, even after the
7 Navy's, when the Secretary of the Navy made the decision
8 and then you had to flop that over and submit a report
9 that the Secretary of Navy was going to report, right, and
10 then that took a whole bunch of more data.
11 Q. More data?
12 A. Oh, sure. Like how much it costs to close the
13 place, whether the assumptions that went around moving, if
14 you made the assumption that all these people at shipyard
15 A -- the work was going to shipyard B, then would you move
16 all those people from A to B. I remember the first time I
17 saw that, they said all of them were going to move. I
18 thought, well, that's not true. That's never happened in
19 the past. They aren't going to -- all of the workers out
20 on this shipyard going to march down to another shipyard
21 and go to work. So there were those kinds of dialogues
22 back and forth. That's all I'm saying.

1 A. Those elements. You might find a element from
2 the different processes it went through.
3 Q. So aside from the fact that there were different
4 criteria and elements under those criteria in the process
5 that Williams and MacKinnon did post-November 1990, aside
6 from that, there weren't necessarily any other differences
7 or changes in that process versus what they had done
8 before in connection with base closure? Is that fair to
9 say?
10 A. I really don't know. You ought to ask them.
11 They were going to --
12 Q. Well, you didn't direct them to do anything
13 differently, other than to --
14 A. Comply with the law. We were very concerned
15 that we do what the law said, and started out with it.
16 Q. By which you meant starting from ground zero?
17 A. Yes.
18 Q. And using the new criteria?
19 A. Right.
20 Q. But in your opinion at that time, the law didn't
21 require any other changes necessarily in that process that
22 MacKinnon and Williams had done earlier?

1 MR. GUTMAN: Let me object to that. The Admiral
2 is not a legal expert. He's not here to testify as to
3 what the legal requirements were. If you have a factual
4 question for him --
5 MR. DAVISH: Well, he has an opinion about what
6 the law commanded to do and it is certainly relevant to
7 what he did on the basis of that understanding. That's
8 what I'm inquiring into.
9 MR. GUTMAN: If you have a question with regard
10 to what the Admiral directed his subordinates to do, by
11 all means ask him.
12 BY MR. DAVISH:
13 Q. My question is, did you understand that your
14 requirement as a result of the new law was that you had to
15 direct your staff to do the whole process again, but the
16 only difference being that there were new criteria and
17 elements in that process?
18 A. No, it was do the whole process again.
19 Q. Right. And the process could be the same
20 process as before as long as the criteria and elements
21 under that criteria were applied?
22 MR. GUTMAN: Let me object here. We're reaching

1 Q. Correct.

2 A. Yes.

3 Q. And did you give them any direction at that time
4 in or about December of 1990 when they initiated this new
5 phase of compiling data and analyzing that data on
6 shipyards? Any directions on how that should be done?

7 A. Well, see I don't characterize it as a new phase
8 or whatever. As far as I was concerned, we erased the
9 blackboard and started all over again. That's the problem
10 which I have of your characterization of what we attempted
11 to do in OP-43, which was to forget all that crap; let's
12 start all over; what's the criteria? Assign the numbers,
13 assign new elements, give them weights, let's see what we
14 got. I mean, we really honestly and truly went back to
15 ground zero to start all over again.

16 Q. I understand that. My question is the fact that
17 the data compilation and analysis that Williams and
18 MacKinnon did in December of 1990, did you give them any
19 express directions about how that was to be done, other
20 than it was starting from ground zero?

21 A. Not that I can remember, other than, you know,
22 we're going to comply with the law, with the new process.

1 again and came up with the rankings that are shown in the
2 second grouping under paragraph 2.
3 Q. Are you aware that 3050.22 requires the
4 existence of two public shipyards on the east coast with a
5 drydock capacity for carriers?
6 A. Yes.
7 Q. And isn't it a fact that closure of the
8 Philadelphia Naval Shipyard will reduce the number of
9 public shipyards on the east coast with drydock capacity
10 for carriers to one?
11 A. No, I'm not aware of that.
12 Q. If Philadelphia Naval Shipyard is closed, what
13 two public shipyards with a drydock capacity for carriers
14 will there be?
15 A. You'll have Norfolk and you'll have Philadelphia
16 on a emergency basis. That was part of the closure
17 recommendation, that the Base Closure Commission allowed
18 to retain those drydocks in Philadelphia.
19 Q. In mothball status?
20 A. Yes. Plus you also have Newport News also
21 available, which is a private shipyard.
22 Q. Was there ever any discussion between you and

1 any other person regarding the specific aspect of 3050.22
2 that is a requirement for two public shipyards on the east
3 coast with a drydock capacity for carriers?
4 A. Yes. That was part of the reason why the
5 recommendation was to retain those in mothball status.
6 Q. You discussed that with Admiral Claman?
7 A. Yes.
8 Q. What did you say and what did he say?
9 A. Just what you said.
10 Q. Which was?
11 A. There is a requirement for it, we ought to
12 retain them, hang onto it. Okay. I agree.
13 Q. Drawing your attention to paragraph numbered 2
14 of the document --
15 A. Um-hum.
16 Q. It reads that the previous validation of naval
17 shipyard rankings resulted in the following ranking of the
18 eight naval shipyards. What is being referred to there by
19 the previous validation of naval shipyard ranking?
20 A. That would have been the one that was submitted
21 to the structure committee in the early-March time frame.
22 Q. And the document, Lang 4, suggests that the Base

1 correctly, that we're not happy with this ranking --

2 A. Right. No. No, that's not right.

3 MR. GUTMAN: Again --

4 THE WITNESS: Go ahead and ask the question.

5 You will know when to jump in.

6 BY MR. DAVISH:

7 Q. Well, did the Base Structure Committee indicate

8 to Admiral Claman an opinion about the list of rankings of

9 shipyards that they had received?

10 A. That's not what I got from Claman. They didn't

11 like -- they thought that some of the things that we

12 started and some of the points that were assigned to

13 various areas -- they didn't like it. They wanted

14 something different.

15 Q. But was there a result in mind they wanted to

16 see?

17 A. No.

18 Q. They had a different methodology?

19 A. Right.

20 Q. And that different methodology is 3(a), (b),

21 (c), and (d)?

22 A. Right.

1 Q. And I was very pleased at the end of it that
2 they were so close. It's like a sensitivity check.
3 Q. Now, after the Base Structure Committee told
4 Claman that they wanted a review of the ranking, who
5 actually incorporated these points that the Base Structure
6 Committee wanted or brought to the attention of Admiral
7 Claman and actually did the analysis with those things in
8 mind?
9 A. Mary MacKinnon and one of the employees for
10 Admiral Claman. I don't recall who that was, but they
11 worked long and hard.
12 Q. Did you submit the product of that long and hard
13 process directly to the Base Structure Committee?
14 A. No.
15 Q. What happened to it?
16 A. Admiral Drennon presented it to the committee,
17 as best as I can recall.
18 Q. So you had no involvement with preparing the new
19 ranking?
20 A. Oh, absolutely.
21 Q. What was your involvement?
22 A. I mean, it's -- we knew, with working with Mary

1 MacKinnon and an employee from 07, took the comments that
2 were written at the first presentation which, if I recall
3 properly, Admiral Claman presented to the committee.
4 People raised their hands, and said that's wrong, this is
5 more important than that thing. So he came out of that
6 and says, we're got to redo this.
7 So that's what happened. One of his employees
8 and Mary sat down and redid them all. That was then
9 resupplied back through 44, Admiral Drennon, who would
10 then present, you know -- shipyards were just one of many,
11 air stations and bases and all kinds of things, and he was
12 the guy that would flip the charts down or whatever and
13 say, oh, wait, let's hear the shipyard thing again. Then
14 they would call up Admiral Claman and he would just talk
15 shipyards.
16 Admiral Hekman appeared once before the committee
17 just to talk shipyards.
18 Q. I understand, but my specific question is that
19 once the Base Structure Committee came back to Hekman and
20 said we want a review of the rankings, and MacKinnon and
21 this other person began on the work, what was your
22 involvement?

1 A. I don't like you saying rankings. That was not
2 the issue. The ranks were not the issue. The issue were
3 the elements that they felt to make their decision on
4 weren't in the best interests of the United States Navy,
5 in their opinion of the structure committee.
6 It's like me submitting something to my boss and my
7 boss saying, hey, that ain't as important as you think,
8 Lang. This other thing's more important; go do it again.
9 That's what happened. We went and did it again. And
10 it came back through me, back to Admiral Drennon, back to
11 the committee to reflect their new desires on what they
12 felt were more important facets and needs of the Navy
13 Department than what they received on the first go-around.
14 Q. I understand. You said it went through you.
15 A. But it wasn't key to the rankings.
16 Q. Fine. All I'm asking is, when it went through
17 you, as you just said --
18 A. Yes.
19 Q. What did you do with it? Did you ever read it?
20 Did you analyze it?
21 A. Absolutely I read it.
22 Q. And did you go back to MacKinnon and make any

1 A. Yes. Well, once I gave my okay, then it kind of
2 went back down to Mary and Mary would take it over to the
3 person working at OP-44 and then it would get up to the
4 committee. And Mary might actually present it to me
5 in the presence -- Williams could or could not have been
6 there.
7 Q. To your knowledge, did OP-43 give any
8 consideration to closing or recommending closure of any
9 shipyard other than Philadelphia?
10 A. Yes.
11 Q. What shipyard was that?
12 A. Norfolk, Long Beach, Charleston, Pearl Harbor,
13 Puget Sound, Portsmouth, Mare Island, and Philadelphia.
14 Q. Did there come a time when you discussed two
15 principal candidates for closure?
16 MR. GUTMAN: The Admiral has answered that
17 question. He said all of the shipyards were candidates
18 for closure. The analysis went from there.
19 BY MR. DAVISH:
20 Q. Did there come a time when the list narrowed at
21 all?
22 A. Not as far as 43 was concerned, that I can

1 had whittled it down to two or not, I really don't know
2 and I would suggest that you ask Admiral Drennon, Mr.
3 Nemfakos, which I think you've already subpoenaed.
4 But I did not attend all those meetings, and I
5 think it would be leading you astray for me to
6 characterize what went on in that committee.
7 Q. Looking once again at Lang 4 --
8 A. Yes.
9 Q. In particular the revised rankings of shipyards
10 --
11 A. Yes.
12 Q. Is it fair to say that in your opinion, if you
13 were going to consider more than one shipyard for closure,
14 it would be Philadelphia and Portsmouth if for no other
15 reason than those were the two most lowly-ranked
16 shipyards? Is that fair to say?
17 MR. GUTMAN: Let me object there. What time
18 frame are you talking about? There are two different
19 lists here and Portsmouth and Philadelphia are the bottom
20 two on one, but not on the other.
21 MR. DAVISH: Well, let me just say that the
22 bottom two on the list, whether they are Philadelphia and

1 Portsmouth or Philadelphia and Mare Island, those would be
2 the principal candidates for closure because they were the
3 two lowest-ranked shipyards. Isn't that a fact?
4 MR. GUTMAN: You are asking for the Admiral's
5 opinion or are you asking for a factual conclusion? I'm
6 beginning to --
7 MR. DAVISH: His opinion.
8 THE WITNESS: In my opinion, as you would move
9 up the list as the numbers of shipyards to be closed would
10 occur. However, you've got to recognize that Portsmouth
11 is a nuclear-capable submarine yard -- that's their
12 primary business base, as is Mare Island. So you can't
13 just blindly go at this list and say okay, now the next
14 yard that the Navy's going to close is going to be
15 Portsmouth. It's not true.
16 BY MR. DAVISH:
17 Q. Well, shouldn't the fact that, for instance,
18 Portsmouth has a particularly unique nuclear capability
19 already have been factored into the rankings in the first
20 place?
21 A. I think that's part of the discussion here.
22 Back on Delta, I think we talk to that, don't we? Since

1 rankings your office prepared, Long Beach is number three
2 on the list, above Pearl Harbor, Charleston, Mare Island
3 and Portsmouth?
4 MR. GUTMAN: Objection. There's no foundation.
5 We haven't established that the Base Structure Committee
6 was only reviewing Long Beach and Philadelphia.
7 MR. DAVISH: I'm representing to him that that
8 did occur and that is fact what did occur.
9 THE WITNESS: And my statement to you is you
10 would have to ask them.
11 BY MR. DAVISH:
12 Q. Drawing your attention once again to line 5, in
13 particular paragraph 1A, which reads, "Meet with OP-431 to
14 develop revised COBRA cost data on the complete closure of
15 both shipyards." Do you recall what the revisions in the
16 COBRA cost data were that necessitated a revised COBRA
17 cost analysis?
18 A. I can't remember specifically, what exactly the
19 data was, but it was more this same type of thing that you
20 get down, you know, like down at Philadelphia 2A, all
21 shipyard personnel could be severed, RIF'd, no
22 relocations.

1 It's that type of thing where you make the
2 assumption that 7,000 people are going to move from
3 shipyard A to shipyard B, that can drive up your costs
4 significantly. If you are going to take all the lathes
5 and metalworking machines out of shipyard A and move them
6 to shipyards B, C, and D, if you make that assumption,
7 that really drives the costs up.
8 But if you make the assumption, no, we are going
9 to mothball the facilities, hey, that's not a big cost.
10 So that's was the COBRA data which comes up with, as I
11 recall, an end result of a payback period, right -- for X
12 numbers of years? You know depending on what you put in
13 and what assumptions are made, you can get all kinds of
14 answers from 99 years to 150 years of a payback.
15 So as I recall, these kinds of issues were
16 brought up and we worked closely with NAVSEA to try to be
17 responsive to the decisions that were being made by the
18 committee.
19 Q. And 1A reads that revised COBRA data on the
20 complete closure of both shipyards, in the context of Lang
21 5, would you agree that both shipyards refers to Long
22 Beach and Philadelphia?

OFFICIAL TRANSCRIPT
BEFORE THE

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SENATOR ARLEN SPECTER, et al.,	
Plaintiffs,	CIVIL ACTION NO.
v.	91-CV-4322
H. LAWRENCE GARRETT, III, et al.,	Hon. Ronald J. Buckwalter
Defendants.	

Arlington, Virginia
Wednesday, September 25, 1991

Deposition of STEPHEN FRANCIS LOFTUS

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1 at the U.S. Naval Postgraduate School in Monterey.
2 Q. Could you just tell me the years in which you
3 received your degrees, please?
4 A. I can if I can remember.
5 Q. Approximately.
6 A. '56 from the University of Massachusetts,
7 Bachelor's, and '70, either '69 or '70, probably '70 for
8 the financial management.
9 Q. For how long have you been in the Navy?
10 A. I have been in the Navy since August of 1956,
11 so 35 years. I did have some split service. I left the
12 Navy in 1959, December of 1959, and came back in in June
13 of 1962.
14 Q. What is your present position with the Navy?
15 A. I am the Deputy Chief of Naval Operations for
16 Logistics.
17 Q. And you are considered a three or four star
18 admiral, five star?
19 A. Hey, I will take five. Three star. It is a
20 vice admiral.
21 Q. Vice admiral.
22 A. Right.

1 My question is, leaving aside the exact date,
2 July 10, 1990, did you at any point in time in 1990 or
3 any point in time in 1991 learn or were you informed
4 that some time in 1990 the Three Star Base Closure
5 Advisory Committee had voted to mothball the shipyard at
6 Philadelphia?
7 MR. BATTEN: It has been asked and answered.
8 You may answer again.
9 THE WITNESS: No. I don't remember that there
10 was a vote -- I never knew there was a vote that was
11 taken. Even reading this now, I don't recall a vote
12 taken.
13 BY MR. PITTINSKY:
14 Q. Leave aside the issue of a vote for a second,
15 did you at any time learn or were you informed that the
16 Three Star Base Closure Advisory Committee had reached a
17 conclusion that the Philadelphia shipyard should be
18 mothballed?
19 A. When I became OP-04 later I was aware of
20 that. I was not aware of that in July of 1990.
21 Q. You became aware when you became the Deputy
22 Chief of Naval Operations --

1 A. Right.

2 Q. -- that the Three Star Base Closure Advisory

3 Committee had reached the conclusion that the shipyard

4 of Philadelphia should be mothballed?

5 A. I believe that was one of their

6 recommendations. It was not a conclusion. I am not

7 aware of this happening at all.

8 Q. We will get to that. When you say "this," you

9 are referring to the second paragraph, correct?

10 A. Right.

11 Q. I am talking now about the conclusions reached

12 by the group.

13 A. Yes.

14 Q. So that you did, when you became Deputy Chief

15 of Naval Operations, you did become aware of the fact --

16 A. Those were never decisions. Those were

17 recommendations made and no decisions came out of that

18 group as far as I am aware, now or then.

19 Q. You do see in this document in the second

20 paragraph it states, "these recommendations and others

21 were forwarded and concurred in by CNO, SECNAV and

22 SECDEF." Do you see that?

1 A. Yes, yes.

2 Q. All right. And you are saying you are not

3 aware of that happening?

4 A. I am. The CNO, as far as I am aware, did not

5 concur in any of the recommendations, did not take them

6 as decisions from the three star, from that advisory

7 group.

8 Q. When you refer to the CNO, you are referring

9 to Admiral Kelso?

10 A. I am.

11 Q. You are saying he did not do that before you

12 became Deputy Chief of Naval Operations or he didn't do

13 it after you became?

14 A. He didn't do it after I became.

15 Q. What about before?

16 A. I can't answer for him before that.

17 Q. All right. Do you see where it says for

18 political reasons these agreements have not been

19 officially promulgated?

20 A. Yes.

21 Q. Were you ever a party to any discussions with

22 any Navy offices relating to the fact that proposed base

1 proposed for closure and those which were proposed for
2 realignment?
3 A. I believe so. I don't know whether exactly
4 that format but those categories were there.
5 Q. Now, if you look at the fifth paragraph in
6 this document, Ms. Flynn writes, "How Philadelphia Naval
7 Shipyard will be shown is still a major issue. OP-43
8 staff indicated it will be shown as 'mothball', vice
9 'SRF' and that it is too late in the process to make a
10 change now. Admiral Hekman may want to raise that issue
11 with the advisory group."
12 Do you see that?
13 A. Yes.
14 Q. Do you recall Admiral Lang and his staff or
15 Admiral Drennon and his staff had shown the Philadelphia
16 Naval Shipyard as a mothball status at the December 20
17 meeting?
18 A. I don't recall because I believe at that time
19 the OP-43 or Admiral Lang's staff was examining the
20 option of an SRF.
21 Q. What is an SRF?
22 A. It is a ship repair facility.

1 Q. What is the basis of your belief that at that
2 time, December 20, Admiral Drennon and his staff were
3 examining the SRF option?
4 A. This paragraph. I mean --
5 Q. This paragraph doesn't say that.
6 A. This paragraph does say it doesn't know
7 whether it is going to be shown as a mothball or an
8 SRF.
9 Q. No, it says OP-43 staff indicated it will be
10 shown as mothballed, right?
11 A. Vice SRF, which keys me to remembering during
12 that period of time OP-43 was looking at the option of
13 making Philadelphia an SRF vice mothballing. That's
14 more than what it says on the document.
15 Q. Sir, let me show you a document that has been
16 marked Claman 3 for identification. Sir, this is a
17 memorandum or letter from Admiral Hekman to the Chief of
18 Naval Operations, OP-04, correct?
19 A. Yes.
20 Q. So that was to you then?
21 A. That was to me.
22 Q. Do you recall receiving this on or about

1 Naval Shipyard proposed in reference (a) was discussed
2 at the 20 December 1990 meeting of the Base Closure and
3 Realignment Advisory Committee. NAVSEA's recommendation
4 that Philadelphia Naval Shipyard not be mothballed and
5 closed but rather be downsized to approximately the size
6 of a ship repair facility was not accepted."
7 A. Correct.
8 Q. Is that a true statement of what occurred on
9 December 20, 1990 with regard to Admiral Hekman's
10 request that the Philadelphia Naval Shipyard be
11 downsized rather than mothballed?
12 A. That's correct.
13 Q. So that so far as the Philadelphia Naval
14 Shipyard was concerned, it was the recommendation of the
15 Three Star Advisory Committee at the conclusion of the
16 December 20, 1990 meeting that Philadelphia Naval
17 Shipyard be mothballed?
18 A. That's correct, recommendation.
19 MR. BATTEN: Asked and answered.
20 BY MR. PITTINSKY:
21 Q. Now, to whom was that recommendation made?
22 A. The recommendation was made to the CNO.

1 Q. That's Admiral Kelso?

2 A. That's Admiral Kelso.

3 Q. When was that recommendation passed on to

4 Admiral Kelso?

5 A. I may not have the date directly. I think it

6 was the 28th of January.

7 Q. Was Admiral Kelso at the Advisory Committee

8 meeting of December 20?

9 A. No.

10 Q. Were you the person who made the presentation

11 of the Three Star Advisory Committee recommendations to

12 Admiral Kelso?

13 A. No. That was Admiral Smith.

14 Q. Were you present when that was made?

15 A. I was present, yes.

16 Q. Who else was present?

17 A. Admiral Kelso, Admiral Johnson, Admiral Smith

18 and myself. Maybe the EA was there, his executive

19 assistant, but I am not sure.

20 Q. And was that presentation made to him in his

21 office?

22 A. Yes.

1 Q. And was Philadelphia the only recommendation
2 made at that time? Was there a list of proposed
3 closures and realignments?
4 A. Full list, as a result of this working group,
5 right.
6 Q. And do you recall approximately how many bases
7 were then being proposed for closure or realignment to
8 Admiral Kelso?
9 A. I don't. A significant number.
10 Q. And did Admiral Kelso go over the list?
11 A. Yes.
12 Q. And what decisions did he reach?
13 A. Admiral Kelso made a statement prior to
14 accepting the list that this would not be a decision
15 meeting, that he would hear the recommendations and that
16 was all.
17 Q. All right. And after he heard the
18 recommendations, what happened?
19 A. That was it. That was the end of it. The
20 list, the transfer of the function then went from OP-08,
21 Admiral Smith, to me. And that was the end of that
22 working group. I don't think we had any more meetings.

1 That was also about the time that a new --
2 that the Base Structure Committee was being put
3 together, which was the reason that Admiral Kelso said
4 he wasn't making any decisions, he would listen to the
5 recommendations but they were putting a group together
6 that was chartered to look at each activity separately
7 by law and that was basically the end of the advisory
8 group list.
9 Q. Well, isn't it a fact that the advisory group
10 list was passed along to the Navy Base Structure
11 Committee chaired by Ms. Schafer?
12 A. Yes, they had the list.
13 Q. And, in fact, you were a member of the Navy
14 Base Structure Committee?
15 A. Absolutely.
16 Q. So you had the list?
17 A. And I can tell you unequivocally that list was
18 not used as a marker to start the base closure, base
19 structure functions.
20 Q. You say it wasn't used as a marker; is that
21 correct?
22 A. No.

1 Q. What do you mean by a marker?
2 A. I mean the recommendations that went forward
3 with that group were not used with the new group at
4 all. The recommendations, the briefing that I listened
5 to and gave or Admiral Smith gave to CNO was not given
6 to the base structure group. It was not given to
7 anybody else, by the way.
8 Q. Well, I thought you just testified that the
9 list itself was passed on to the Navy Base Structure
10 Committee?
11 A. Yes. But I should be very clear that the list
12 as passed on was available, the list was not used for
13 anything. If it was used at all, it was used as a
14 starting point. I don't remember bringing a list into
15 the room any time. It was not -- it had no function
16 with the new group at all.
17 Q. And just so it is clear, the recommendations
18 that were made to Admiral Kelso on January 28, 1991 by
19 the Three Star Advisory Committee were unanimous
20 recommendations of Admiral Smith, Admiral Johnson and
21 yourself, correct?
22 A. No. Those were the recommendations that

1 Admiral Smith put together as a result of the working
2 group, advisory group, which he briefed to the CNO.
3 Q. You didn't agree with Admiral Smith?
4 A. I didn't agree with him then, no, not at all.
5 I made that clear at the meeting. I didn't agree with
6 all of the things on that list. I wasn't part of the
7 working group, you see, all the way through that.
8 Q. You were at the December 20, 1990 meeting.
9 A. There was a lot of meetings. That was only
10 one of them.
11 Q. But that was a pretty important meeting?
12 A. It was a very important meeting.
13 Q. Right. Did you agree with the recommendation
14 to mothball Philadelphia Naval Shipyard?
15 A. Yes.
16 Q. All right. Did you review the numerical
17 rankings given the eight naval shipyards in December
18 1990?
19 A. No, not in December of 1990. I reviewed them
20 in January.
21 Q. Of 1991?
22 A. Of 1991.

1 Q. Did you understand that Philadelphia -- well,
2 let me go back a step. The first four criteria listed
3 for evaluation, mission requirement, land facilities,
4 contingency, cost manpower, were the military criteria,
5 correct?
6 A. Yes.
7 Q. Did you understand that for the four military
8 criteria, the naval shipyard at Philadelphia had two
9 yellows and two greens?
10 A. Yes.
11 Q. Which was the same as Portsmouth, Mare Island
12 and Charleston?
13 A. Yes.
14 Q. And better than Long Beach, correct?
15 A. Yes.
16 Q. And did you understand that it was the
17 conclusion of the Base Structure Committee that all of
18 the nuclear capable shipyards should be exempt from
19 closure under the Step 5 procedure adopted by Ms.
20 Schafer?
21 A. The nuclear capable yards were exempted
22 because there was no excess capacity. And by the rules

1 of the Commission themselves, they were no longer
2 considered for closure.
3 Q. And in what years was there no excess
4 capacity?
5 A. Beyond the period of time that this Commission
6 was affected, the two plus six.
7 Q. 1998 through 2000, correct?
8 A. Yes. This base structure group looked at
9 things that took us out to the seven years, start
10 closure within two years, be closed within six years.
11 If it was beyond that, the next Commission, the '93 and
12 '95 were looked at.
13 There was nuclear war and dry dock capability
14 or dry dock usage throughout that period of time for all
15 of the nuclear yards and, therefore, they were not
16 considered for closure, for potential closure. There
17 was no excess.
18 Q. Well, but the no excess was in the years 1998
19 through the year 2000?
20 A. There was no excess during the period of time
21 we were looking at those for potential closures.
22 Q. You are sure of that?

1 A. Yes.

2 Q. Would you look, please, at MacKinnon 15. Just

3 so the record is clear, you understood that Mrs.

4 MacKinnon reported to Captain Williams?

5 A. Yes.

6 Q. Who reported to Admiral Lang, who reported to

7 you, correct?

8 A. That's correct.

9 Q. If you would turn, please, to the page with

10 the Bates No. 498. There is a title 10, Miscellaneous,

11 Unique Considerations and under that a title of Nuclear

12 Capability. Do you see that?

13 A. Yes.

14 Q. Mrs. MacKinnon writes, "The projected work

15 load for the naval shipyards in 1998 to 2000 requires

16 six nuclear naval shipyards." Do you see that?

17 A. Yes.

18 Q. Does that refresh your recollection that the

19 capacity problem existed in the years 1998 to the year

20 2000?

21 A. No.

22 MR. BATTEN: He didn't testify his

1 recollection needed refreshing. He gave you an answer
2 to the question.
3 THE WITNESS: No. There was not excess
4 capacity in those shipyards during the period of time
5 that we were going to examine any of the bases or any of
6 the structure for closure. I think your indication here
7 is that, am I reading you correctly, you are saying
8 there is no excess capacity in that two-year period of
9 time?
10 BY MR. PITTINSKY:
11 Q. That's what I am saying she said. Don't you
12 understand it that way?
13 MR. BATTEN: The document speaks for itself.
14 BY MR. PITTINSKY:
15 Q. Don't you understand it that way?
16 A. I understand that for the period of time that
17 the Base Structure Committee, for the period of time
18 that they looked at for closures in that time frame, did
19 not see an excess that would allow us to close any
20 nuclear yards, period.
21 Q. And my question is whether that lack of excess
22 or absence of excess was in the years 1998 to 2000?

1 MR. BATTEN: It is asked and answered.
2 BY MR. PITTINSKY:
3 Q. I am responding to the previous answer.
4 A. It clearly is in that period of time. In my
5 judgment it is in that period of time prior to that too
6 and could be in that period of time afterwards.
7 Q. What is the benchmark percentage that you used
8 to determine whether there is excess capacity?
9 MR. BATTEN: Objection, lack of foundation.
10 You may answer.
11 THE WITNESS: I don't know. You will have to
12 clarify that for me. What do you mean?
13 BY MR. PITTINSKY:
14 Q. Let me show you a document previously marked
15 as MacKinnon 17. These are view graphs that were
16 presented to the Base Structure Committee on February
17 14, 1991.
18 A. Yes.
19 Q. Do you recall that these were presented to the
20 Base Structure Committee on February 14, 1991?
21 A. They were presented during that period of
22 time. That date, I can't tell you exactly.

1 Q. NSY's is naval shipyards?
2 A. Yes.
3 Q. So you were informed at a mid-February 1991
4 meeting of the Base Structure Committee that it was the
5 work load for the naval shipyards in the years 1998 to
6 2000 which required six nuclear capable naval shipyards,
7 correct?
8 A. Yes. We were also informed that we didn't
9 have the foggiest idea but due to base structure coming
10 down during the period of that time, whether we would
11 have more deactivations as we took force structure out.
12 I think the same paragraph also says it is not
13 practical to close a nuclear capable shipyard for the
14 period of the SYDP and reopen that yard to establish
15 another nuclear capable overhaul shipyard subsequent to
16 the six-year period.
17 Q. What is SYDP?
18 A. Six-year defense plan for the period of time
19 we are talking about. For clarification, you should
20 know that statement or that paragraph was in there
21 because work load is not stable across the years. Work
22 load fluctuates.

1 Q. Right.

2 A. And there are certain work load projections at
3 the times of the brief that indicate that in 1998 to the
4 year 2000 we are going to have an excess of ships to
5 work on that the shipyards can handle. Subsequent to
6 that we are also going to be doing nuclear work for that
7 entire period of time and we don't have the foggiest
8 idea even today what kind of work those nuclear
9 shipyards are going to have to do.

10 That's the reason that the statement, it is
11 not practical to close a yard and reopen it after the
12 SYDP or during that period of time, was made. I don't
13 want you to be misled to indicate that the only nuclear
14 work that was going to be done in the yards in question
15 here is between 1998 and 2000 and that is the only time
16 that you have an excess of requirements.

17 Q. I understand that. But it was your
18 understanding what the second sentence was saying and
19 what the presentation was on this or was at this meeting
20 was that there was going to be excess capacity during
21 the six-year defense plan period but because there would
22 be no excess capacity in the years 1998 to 2000 it was

1 not practical to close a nuclear shipyard in the
2 six-year period and then reopen it for the years 1998 to
3 2000?
4 A. There was never any brief that Admiral Hekman
5 or Admiral Claman gave that indicated that there was
6 potential for closing any nuclear shipyard. There were
7 excess dry dock days during that period of time during
8 the SYDP but there was never a period of time that would
9 have allowed you to close any one of the six nuclear
10 shipyards.
11 Q. All right. Let's go back a step. You are
12 saying there was a presentation that made it clear that
13 there was excess dry dock capacity in the nuclear
14 shipyards during the six-year defense plan period,
15 correct?
16 A. Measured by days, that's correct.
17 Q. When you say measured by days, what do you
18 mean?
19 A. I mean measured by dry dock days, the number
20 of days that a submarine in one of those six yards, that
21 the dry dock would be free of having a submarine in it.
22 Q. Right.

1 A. Sometimes that is measured in two or three
2 days, sometimes that is measured in 14 days, sometimes
3 it is measured in 30 days but there was never, I don't
4 want you to be misled, there was never an indication
5 that there was any period of time that you could close
6 any nuclear shipyard during that period of that six
7 years or seven years that we talked about by anyone at
8 NAVSEA or anyone that made a presentation.
9 Q. Isn't it a fact that the work at nuclear
10 capable shipyards also includes work on non-nuclear
11 ships?
12 A. Some yards, yes.
13 Q. Isn't it a fact that the percentage of
14 non-nuclear ship work at a nuclear shipyard varies from
15 anywhere between 25 to 50 percent?
16 A. Somewhere around that.
17 Q. So why wasn't it possible to, for example,
18 close Portsmouth and send the nuclear work at Portsmouth
19 to Charleston and Norfolk and the non-nuclear work to
20 Philadelphia?
21 MR. BATTEN: It calls for speculation. You
22 can answer.

1 THE WITNESS: No one would do that and try and
2 maintain a fleet schedule. I mean, that requires
3 docking, which is a very, very complex evolution. It
4 requires your doing work in one yard and then undocking
5 and sailing or towing that ship to another yard to do
6 additional work, depending on what you did first.
7 And I think you are trying to make a
8 distinction in your mind between nuclear and non-nuclear
9 work, that they are compartmentalized so they are easy
10 to separate and do that way, and that's not true.
11 Q. I don't think you understood my question. Let
12 me go back a step.
13 When I say non-nuclear work, I thought my
14 question was clear but I am talking about work on
15 non-nuclear ships.
16 A. Oh, I am sorry. I thought you meant -- we
17 determine nuc and non-nuc work on the same ship.
18 Q. Let me go back so the record is clear. Isn't
19 it a fact that from 25 to 50 percent of the work at a
20 nuclear capable shipyard is, in fact, on non-nuclear
21 ships?
22 A. No, it is not a fact. Some yards -- the ship

1 work or ship load varies by yard, but to say that
2 somewhere between 25 and 50 percent of all nuclear
3 capable shipyards do non-nuc work is not true.
4 Q. Is it true of some?
5 A. It is true of some. And it varies, again.
6 Q. I see. Does the Navy keep statistics on the
7 amount of work in a nuclear capable shipyard that is on
8 non-nuclear ships and the amount of work in nuclear
9 capable shipyards that is on nuclear ships?
10 A. True.
11 Q. Now I hope we have clarified that. Why didn't
12 the Navy consider closing a nuclear capable shipyard
13 such as Portsmouth and sending the nuclear ship work to
14 other East Coast nuclear capable shipyards and the
15 non-nuclear ship work to Philadelphia?
16 A. Because the six nuclear capable shipyards did
17 not have excess dry dock days in that period of time
18 which would allow you to close any of the nuclear
19 capable shipyards.
20 Q. Well, if they are spending their time, a
21 significant portion of their time; that is, as we
22 have -- you are looking puzzled. I thought we

1 established that there were some, some nuclear capable
2 shipyards where between 25 and 50 percent of the work is
3 on non-nuclear ships.
4 A. Different part of the yard, different dry
5 docks, different setup, different water, power, steam.
6 There was enough nuclear work to do in the six shipyards
7 on nuclear piers, dry docks, that we couldn't even
8 consider closing a nuclear shipyard. The fact that some
9 of the yards did non-nuclear work has no bearing on it.
10 Q. All right. Let me show you a document
11 previously marked as NemFakos 10.
12 MR. ANDERSON: 10 to what deposition?
13 MR. PITTINSKY: NemFakos.
14 BY MR. PITTINSKY:
15 Q. I would ask you to turn to page 332, please,
16 Bates No. 332.
17 A. Okay.
18 Q. I assume you have seen this view graph before?
19 A. Right.
20 Q. Would you tell me what it describes, please?
21 A. I think it describes the same thing we talked
22 about before. There was a period of time between now

1 and 1998 that there were some available dry dock days in
2 the nuclear shipyards, that all of the dry dock spaces
3 in nuclear shipyards were not being utilized, that there
4 was some excess, yes.
5 Q. All right. And particularly in the years
6 1995, 1996 and 1997, correct?
7 A. That's correct.
8 Q. Now, would you go back, please, to Yellin 1,
9 the rating sheet. Why was Long Beach excluded from
10 consideration for closure by the Navy Base Structure
11 Committee?
12 A. Because of its large dry dock capable of
13 handling a carrier.
14 Q. And was that pursuant to the Navy policy that
15 there be two large carrier dry docks on each coast for
16 non-nuclear carriers?
17 A. It was pursuant to the policy, the prudent
18 policy to keep a large dry dock capable of handling a
19 carrier available on the West Coast and on the East
20 Coast.
21 Q. Wasn't there one at Puget Sound?
22 A. Yes, there is.

1 Q. So why was it necessary to have a second one
2 at Long Beach?
3 A. Because the one in Puget Sound could be
4 filled, right, and you needed one for emergent work,
5 potential for emergent work. The East Coast, as you
6 well know, had nuclear or carrier capable dry docks at
7 Philadelphia, then Portsmouth, Virginia and at Newport
8 News. It didn't have that on the West Coast. You would
9 have one.
10 If you didn't keep the dry dock open at Long
11 Beach, you would have had Puget Sound.
12 Q. There was a decision made that it was
13 necessary to have two large carrier dry docks available
14 on the West Coast?
15 A. Correct.
16 Q. For large carriers, conventional large
17 carriers, correct?
18 A. That's right.
19 Q. Well then why wasn't the same decision made
20 for the East Coast?
21 A. Because two are available.
22 Q. What two are those?

1 A. Portsmouth, Norfolk Naval Shipyard and Newport
2 News.
3 Q. Isn't Newport News a private facility?
4 A. It is a dry dock. We had Hunters Point and
5 that no longer is available. So that was a West Coast
6 facility as well. The point is that you needed a dry,
7 you needed a large dry dock capable of handling a
8 carrier in case you had an emergent requirement and for
9 that reason you didn't want to restrict yourself to a
10 single dry dock on the West Coast. It didn't make
11 prudent sense to do that.
12 Q. Is it your testimony that the only reason Long
13 Beach was kept open was for emergent carrier work?
14 A. Or a large ship dry dock necessary for the
15 West Coast.
16 Q. So Long Beach was kept open because of a
17 perceived need to have two large carrier dry docks
18 available on the West Coast, each of which would be
19 available for scheduled and emergent work?
20 A. Long Beach was kept open because it had a
21 large carrier, large ship dry dock which the Base
22 Structure Committee and the Navy felt that it should

1 have to handle emergent work or any other work as
2 necessary.
3 Q. Including scheduled work?
4 A. If scheduled work went in there, but primarily
5 it was a prudent approach to keeping a dry dock open on
6 the West Coast.
7 Q. And let me show you a document previously
8 marketed as Claman 1. This is a memorandum submitted by
9 Admiral Claman to Admiral Lang on March 29, 1991. I
10 apologize but it is March 29, 1991.
11 Did you review Claman 1 on or about March 29,
12 1991?
13 A. We probably reviewed the options that were
14 briefed to us. I did not review this document as it
15 came in, no.
16 Q. All right.
17 A. But the options were clearly briefed.
18 Q. You had the document in your possession,
19 right?
20 A. That's right.
21 Q. Would you turn, please, to the page Bates
22 numbered 602. Let me direct your attention to the

1 second paragraph under the title Strategic and
2 Operational Consequences.
3 A. Yes.
4 Q. There Admiral Claman states, "Closure of
5 Philadelphia Naval Shipyard without retention of the
6 large carrier capable dry docks creates a shortfall in
7 dry dock capability for emergent dockings of aircraft
8 carriers. The only carrier capable dry dock available
9 on the East Coast under Navy control is at Norfolk Naval
10 Shipyard and will be fully utilized. Without the dry
11 docks available at Philadelphia, the only other dock
12 capable of taking an emergent carrier docking is at
13 Newport News Ship Building, NNSB." I will skip the next
14 sentence.
15 "This dock is privately owned and its docking
16 schedule is not controlled by the Navy. The cost to
17 have NNSB provide a dedicated dock under contract is
18 considered prohibitive. The only alternatives are to
19 use the NNSB dock, if available, or to physically remove
20 a ship already in dock at Norfolk Naval Shipyard, if
21 possible."
22 Do you see that?

1 A. Yes.
2 Q. Did you agree with that statement?
3 A. It is Admiral Claman's opinion and the Base
4 Structure Committee and I didn't agree with it at all.
5 Q. Did you agree that the only way that you could
6 assure that Newport News Ship Building's dry dock would
7 be available is through making it a dedicated dock?
8 A. No, I don't agree with that at all.
9 Q. How would you make it available then if it was
10 not a dedicated dock?
11 A. The same way you would make it available with
12 any company that you provided a contract with. You
13 would have to, if you needed that dock, you would have
14 to arrange or negotiate with Newport News to use it.
15 Q. But for emergent work, for example, if it is
16 already occupied, you couldn't use it, correct?
17 A. That's correct, but the same thing would hold
18 true on the West Coast if both dock yards were filled
19 there. I mean, there is a point that you are not going
20 to keep 12 large carrier dock yards available because
21 you may have to have 12, but there is also a prudent
22 approach that says at least you ought to have two per

1 coast.

2 Q. Right. Now, by having Long Beach and Puget

3 Sound, you know they are available for the Navy,

4 correct?

5 A. That's correct.

6 Q. You don't have to worry about contracting with

7 anyone.

8 A. No, not if they are free.

9 Q. Yes. But you schedule the work --

10 A. Right.

11 Q. -- in Puget Sound and Long Beach, correct?

12 A. That's correct.

13 Q. Now, on the East Coast after Philadelphia is

14 closed you would only have one naval dry dock available,

15 correct?

16 A. That's correct.

17 Q. That's the one at Norfolk, correct?

18 A. But we will have two available if we need

19 them, which probably will provide us almost as easy

20 access as if we had the same situation on the West

21 Coast.

22 Q. Is it your testimony that there were two large

1 carrier dry docks available at Newport News?
2 A. I said there are two large carrier dry docks
3 available on the East Coast with Newport News and the
4 Norfolk Naval Shipyard. I understand your point.
5 Q. On the West Coast you have two naval
6 shipyards, each of which has one large carrier dry
7 dock.
8 A. That's correct.
9 Q. You don't have to contract with them?
10 A. No.
11 Q. Therefore, unless you have scheduled something
12 in there, they will be available?
13 A. Correct.
14 Q. On the East Coast, after Philadelphia is
15 closed, you will only have one naval shipyard with one
16 large carrier dry dock, with that as the case?
17 A. That's correct.
18 Q. Because Newport News is a private shipyard?
19 A. Yes.
20 Q. And if there is emergent carrier work, it may
21 not be available?
22 A. If there is emergent carrier work, Norfolk

1 Naval Shipyard may not be available. Puget Sound may
2 not be available. Long Beach may not be available.
3 That's a risk.
4 Q. Sure. But you have more control over the
5 naval shipyards than you do over a private shipyard?
6 A. Absolutely.
7 Q. All right. Would you look again please at
8 Claman 1, the document you have in front of you,
9 particularly the page Bates numbered 593. It is the
10 second page of the document.
11 There at two-thirds of the way down the page
12 is a statement "Naval shipyards have three critical
13 missions." Do you see that?
14 A. Yes.
15 Q. The first listed by Admiral Claman is
16 refueling nuclear submarines and nuclear cruisers. The
17 second is overhauling, repairing or inactivating nuclear
18 submarines and nuclear cruisers. And the third is
19 overhauling and repairing large complex surface
20 combatants, including nuclear and conventional aircraft
21 carriers, cruisers, destroyers and amphibious ships.
22 These missions are beyond the capability or the capacity

1 of the private sector.

2 Do you see that?

3 A. Yes.

4 Q. Do you agree with that statement?

5 A. No, I don't agree with that. The private

6 sector is perfectly capable of repairing and overhauling

7 large complex combatants, cruisers, destroyers,

8 amphibious ships, conventional carriers and nuclear

9 carriers.

10 Q. Isn't it a fact that the private sector is

11 much more expensive than the Philadelphia Naval

12 Shipyard?

13 A. No.

14 Q. That's not true?

15 A. In what piece of work, sir?

16 Q. In overhauling and repairing large complex

17 surface combatants, including conventional aircraft

18 carriers, cruisers, destroyers and amphibious ships.

19 A. I don't think Philadelphia Naval Shipyard has

20 competed directly with the private sector for an

21 overhaul or repair of a large amphibious or carrier.

22 Our other experience in the public and private shipyards

1 are that the competitions have gone both ways.
2 Q. Doesn't the Navy maintain information which
3 describes the differences in cost at the various naval
4 shipyards and at the private shipyards?
5 A. Yes.
6 Q. Let me show you a document previously marked
7 as MacKinnon 19. This is a document that was prepared
8 by NAVSEA. Would you look, please, at the last page of
9 the document, MacKinnon 19.
10 This has fiscal year 1990 rates for ship work
11 on it and you note that the Philadelphia rate is
12 $334.80. And Electric Boat, which is a private
13 shipyard, correct, sir?
14 A. Right.
15 Q. Is $505.11. And Newport News, which is also a
16 private shipyard, correct?
17 A. Yes.
18 Q. That is $456.37, correct?
19 A. Yes.
20 Q. Doesn't that demonstrate to you that
21 Philadelphia was much less expensive than Electric Boat
22 or Newport News?

1 A. It demonstrates to me that Philadelphia does
2 an entirely different kind of work than Newport News or
3 Electric Boat. And different skill rates, different
4 skill mixes doing different jobs dictate a different
5 mandate rate. Nuclear work is much more expensive than
6 conventional work.
7 Q. Well, we are talking about conventional work.
8 A. You are not talking about that. You are
9 talking about conventional work for Philadelphia. You
10 are not talking about it for Electric Boat and Newport
11 News.
12 Q. Don't they do conventional work?
13 A. Electric Boat builds submarines, 688 SSN
14 submarines, very complex nuclear work. Newport News is
15 nuclear carriers and nuclear submarines. You can't
16 compare them and the mandate rates with Philadelphia
17 Naval Shipyard. If you want to compare them, compare
18 the right things. Compare hull rates for the same job.
19 You don't have that here.
20 Q. How do you know what you have here?
21 A. I know what the mandate rates are.
22 Q. These are the mandate rates?

1 A. These are mandate rates.
2 Q. All right. So you don't agree with Admiral
3 Claman that, just so it is clear, with what he said at
4 page 593 that I read into the record? I am not going to
5 read it in again.
6 A. No, I just don't agree with that.
7 Q. All right. Now, just so the record is clear
8 again, looking at Yellin 1, which is the rating work
9 sheet, was there any other basis for the exclusion of
10 Long Beach from consideration for closure, other than
11 the one that you have previously described in your
12 testimony?
13 A. No.
14 Q. All right. I show you a document previously
15 marked as NemFakos 7.
16 A. Right.
17 Q. The cover page to NemFakos 7 is a letter dated
18 May 24, 1991 from you to Chairman Courter, correct?
19 A. Correct.
20 Q. Is that your signature?
21 A. Yes, it is.
22 Q. And let me state for the record, the

1 criteria which precedes this section. I am also talking
2 about the shipyard section, Roman numeral III that is
3 from pages III-1 through III-6.
4 A. Yes.
5 Q. Isn't it a fact that Mr. NemFakos, who was
6 also a member of the BSC, wanted to close Long Beach?
7 MR. BATTEN: Objection. It calls for
8 speculation on what Mr. Nemfakos may or may not have
9 known.
10 THE WITNESS: I don't know whether it was a
11 fact that he wanted to close Long Beach. Did we look at
12 Long Beach for closure? Yes.
13 BY MR. PITTINSKY:
14 Q. Didn't Mr. NemFakos state at meetings which
15 you attended that he wanted Long Beach closed?
16 A. All of the shipyards were looked at for
17 closure, all eight of them. Every single one of them
18 was discussed. Every single one of them, the work load
19 was looked at.
20 When it was determined that six nuclear yards
21 had enough work load in them during the period of time
22 involved in this Commission's responsibility and that we

1 couldn't close those, those were Step 5 and the work
2 load doesn't allow us, there is no excess, excess is not
3 there to close those yards. That left two yards. That
4 left Long Beach and Philadelphia.
5 Discussions were had on both of those yards
6 and discussions of closing both of those yards were
7 done, closing all of it, not just pieces of each yard.
8 And during those discussions and during the hearings
9 that were held, the fact that Long Beach had a carrier
10 size dry dock that could be used for emergent work
11 precluded us closing Long Beach and, therefore, it
12 became a Step 5 function and was kept open, which then
13 allowed us to discuss Philadelphia, but all shipyards
14 were looked at for closure.
15 Q. Well, with all due respect, when you say all
16 shipyards were looked at for closure, you are referring
17 to work load requirements?
18 A. You are referring to work load requirements as
19 the kicker on the six shipyards which didn't allow you
20 to close nuclear shipyards but they were still looked
21 at, still discussed.
22 We discussed Portsmouth, New Hampshire for

1 closure and when you could close it. And it was
2 determined in this period of time it couldn't be
3 closed.
4 We looked at Philadelphia, we looked at
5 Charleston for closure. We looked at Portsmouth Naval
6 Shipyard which we call Norfolk Naval Shipyard but it
7 happens to be in Portsmouth.
8 We looked at Mare Island and all the work we
9 were doing, pie shapes, Puget Sound and who was doing
10 carriers there and what we were going to, what the work
11 load was going to be there for nuc's. We looked at
12 Pearl Harbor and we would have excluded Pearl Harbor on
13 the Step 5 even if it didn't have excess capacity
14 because of its geographic location and we looked at Long
15 Beach. So --
16 Q. Let me show you Yellin 1 again. You agree
17 with me the BSC rated Portsmouth and Philadelphia
18 exactly the same in the four military criteria?
19 A. Yes.
20 Q. And, indeed, Philadelphia was rated exactly
21 the same as Charleston in the four military criteria?
22 A. Yes.

1 Q. And it was rated better than Long Beach in the
2 four military criteria, correct?
3 A. That's right. It got three yellows and one
4 green.
5 Q. And Philadelphia, Portsmouth and Charleston
6 had two yellows and two greens, correct?
7 A. Yes.
8 Q. Green was higher than yellow?
9 A. Right.
10 Q. Now --
11 A. Yellow has a very large spectrum to it. It is
12 very light yellow and deep yellow and light green and
13 deep green. There are all colors to it when you are
14 going with this many criteria.
15 Q. When you gave it the overall rating, you gave
16 Charleston, Long Beach, Philadelphia and Portsmouth
17 yellow ratings, despite this breadth of tints and
18 shades.
19 A. Absolutely. Some of them are dark and light
20 but they are in there.
21 Q. So it wasn't based on the four military
22 criteria?

1 A. It was based on the Step 5 that you have a
2 carrier capable dry dock on the West Coast that would
3 give you two on the West Coast that we needed to keep
4 and that precluded Long Beach from being closed.
5 Q. And you agree with me that Philadelphia has
6 two large carrier dry docks?
7 A. Absolutely. And I also agree that makes three
8 on the East Coast and the charter of this group was to
9 balance force structure with infrastructure. It was not
10 to keep infrastructure, take infrastructure out.
11 Q. Let me show you a document previously marked
12 NemFakos 6. Just for the record, these are Mrs.
13 MacKinnon's notes of a BSC meeting on February 14,
14 1991. They are not minutes. They are just certain
15 notes she took.
16 And I will read what she says here on the
17 first page.
18 A. Right.
19 Q. "NemFakos says Long Beach should be No. 7 and
20 if we close two, it must be Philadelphia and Long
21 Beach. 04 said if you had to close two, would it be
22 Long Beach because its non-nuclear? Claman said yes.

1 NemFakos really wants to close Long Beach! Very
2 obvious", which is underlined. Do you see that?
3 A. Yes.
4 Q. Does that refresh your recollection?
5 A. Sure.
6 Q. That in the mid-February 1991 meeting of the
7 Base Structure Committee, Mr. NemFakos said he thought
8 Long Beach should be closed?
9 A. Mr. NemFakos thought maybe half of them should
10 be closed. So did I. We were trying to balance force
11 structure. And I think it is very obvious that if we
12 had excess dry dock days in the nuclear yards during the
13 period of time we were looking at, we would have been
14 looking for a nuclear yard to close. So this is a very
15 obvious thing to say.
16 Are we talking about Long Beach and
17 Philadelphia? Those are the only two shipyards that
18 were not doing nuclear work during the period of time.
19 They were the only two available to look at for
20 closure.
21 Q. I thought we established in NemFakos 10, page
22 332 Bates numbered, that there was excess capacity?

1 A. For a short period of time during the middle
2 of that period.
3 Q. In nuclear shipyards in '95, '96 and '97?
4 A. Yes, we did. Surely you wouldn't suggest we
5 close the yard for that two-year period of time.
6 Q. I wouldn't?
7 A. No.
8 Q. I would suggest --
9 A. Those are not all in one yard.
10 Q. I understand that.
11 A. So the fact that you have excess dry dock days
12 spread across six shipyards doesn't necessarily mean you
13 can afford to close any of the six shipyards.
14 Q. I agree with that. Did you have charts which
15 showed the work load at each of the six shipyards?
16 A. Of course.
17 Q. For that period of time?
18 A. NAVSEA who would make this presentation if
19 they could would level those yards as best they could in
20 order to keep the steady, stable work force.
21 Q. But you sitting here today don't recall how
22 this excess capacity was allocated over the six nuclear

1 capable shipyards?

2 A. No, because it will change too. I mean, you

3 can get the point. I am sure NAVSEA must have given you

4 flow charts which show what the nuclear work is.

5 Q. All right.

6 MR. BATTEN: Could we take a short break?

7 (Recess)

8 BY MR. PITTINSKY:

9 Q. You referred to a January 28, 1991 meeting

10 among Admiral Kelso, yourself and Admiral Smith and

11 Johnson.

12 A. Yes.

13 Q. Was there another meeting that at least you

14 and Admiral Kelso participated in at the end of February

15 of 1991?

16 A. Not that I remember.

17 Q. Well, let me ask it this way. After the

18 discussion which you said was really made or the

19 presentation that was made by Admiral Smith to Admiral

20 Kelso on January 28, 1991, at which the recommendations

21 for base closures of the Three Star Advisory Committee

22 were presented to Admiral Kelso, were there any other

1 Q. Did you ever discuss with Admiral Kelso
2 between January 28, 1991 and March 29, 1991 the
3 Philadelphia Naval Shipyard?
4 A. I don't believe so. I don't think so.
5 Q. Isn't it a fact that Admiral Lang took the
6 position before the Navy Base Structure Committee that
7 the Philadelphia Naval Shipyard would have to be closed
8 as a result of the elimination of the CV SLEP on the
9 Constellation?
10 A. One of the reasons that Philadelphia was, in
11 fact, a candidate for closure during the Base Structure
12 Committee hearings was that the work load was going
13 away. Part of that work load were the SLEPS.
14 Q. Wasn't it the position of Admiral Lang at
15 those meetings or hearings of the Base Structure
16 Committee that the Philadelphia Naval Shipyard should be
17 closed?
18 A. Yes, but I am not sure Admiral Lang was -- I
19 am not sure that he provided a briefing at the Base
20 Structure Committee.
21 Q. Was it Admiral Drennon?
22 A. No, it wasn't Drennon. Drennon doesn't know

1 anything about those.

2 Q. Was it you?

3 A. He may have been part of the conversation,

4 Admiral Lang may have been part of the conversations but

5 most of those hearings were hearings given by Claman and

6 Hekman and the NAVSEA group.

7 Q. Well, isn't it a fact that --

8 A. But, you know, when there are six or ten

9 people in the room and a briefing is given by one, by

10 Claman, were there comments by the other people in the

11 room, clearly, yes, that's why they were there.

12 Q. Was the position articulated by Admiral Lang

13 at the hearings in front of the Base Structure Committee

14 or the meetings, whatever you want to call them, that

15 Philadelphia Naval Shipyard should be closed?

16 A. Yes.

17 Q. And you concurred in that?

18 A. Yes, as did all of the other members of the

19 committee.

20 Q. Did Admiral Drennon ever present to the Base

21 Structure Committee the position of Admiral Kelso on

22 base closures?

1 A. No. Admiral Kelso never took a position.
2 Admiral Kelso listened to a brief given by Admiral Smith
3 and made it very clear that he was not going to make
4 decisions.
5 Q. Well, I understand that. My question was did
6 Admiral Drennon ever make a presentation to the Base
7 Structure Committee in which he presented to the Base
8 Structure Committee Admiral Kelso's position on base
9 closures?
10 A. No.
11 MR. BATTEN: Asked and answered.
12 BY MR. PITTINSKY:
13 Q. Did Admiral Lang ever make a presentation to
14 the Base Structure Committee in which he presented to
15 the Base Structure Committee Admiral Kelso's position on
16 base closures?
17 A. No.
18
19
20
21
22

OFFICIAL TRANSCRIPT
BEFORE THE

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SENATOR ARLEN SPECTER, et al,

Plaintiffs,

v.

H. LAWRENCE GARRETT, III, et al,

Defendants.

CIVIL ACTION NO.

91-CV-4322

Hon. Ronald J. Buckwalter

Washington, D.C.
Thursday, September 19, 1991

Deposition of MARY OLGA MacKINNON

ALDERSON REPORTING COMPANY, INC.
1111 FOURTEENTH STREET N.W.
SUITE 400
WASHINGTON, D.C. 20005
(202) 289-2260

1 P R O C E E D I N G S

2 Whereupon,

3 MS. MARY OLGA MacKINNON,

4 doing business at The Pentagon, Room 4B521, OP-431,

5 Washington, D.C. (703) 695-1338, was called as a witness

6 by counsel for Plaintiffs and having been duly sworn by

7 the Notary Public was examined and testified as follows:

8 EXAMINATION BY COUNSEL FOR PLAINTIFFS

9 BY MR. PITTINSKY:

10 Q. Good morning.

11 Would you state your full name, please?

12 A. Mary Olga MacKinnon.

13 Q. Would you please state, briefly, your

14 educational background?

15 A. I have -- I started with the Navy out of high

16 school. I have 21 years with the Navy, the last 5 or 6

17 years associated with the naval shipyards.

18 Q. Would you just briefly specify your positions

19 and tenure in the last 5 or 6 years with the Navy?

20 A. I was in NAVSEA prior to coming to the CNO's

21 office at the Pentagon. I worked in the Shipyard

22 Operation's Directorate there. And I came over to OPNAV

1 in 1989, when they split up the OP-43 organization. We
2 are the policy directorate for the naval shipyards and the
3 ship maintenance and modernization.
4 Q. In what year did you leave NAVSEA and migrate,
5 or come to the CNO's staff?
6 A. 1989.
7 Q. 1989?
8 A. Yes, sir.
9 Q. And what do you mean by the CNO staff?
10 A. It's in the office of the Chief of Naval
11 Operations.
12 Q. And that is Admiral Kelso, today?
13 A. Yes.
14 Q. Was Admiral Kelso the CNO when you arrived at
15 the CNO staff?
16 A. I believe so.
17 Q. Now, I believe you said you had 5 or 6 years
18 recent tenure with involved with the naval shipyards, is
19 that correct?
20 A. Yes.
21 Q. Would you indicate what you did in connection
22 with the naval shipyards prior to joining the CNO's staff?

1 A. At NAVSEA they had an organization that was set
2 up to -- with shipyard analysts, that would turn shipyard
3 analysts which worked with the shipyards, and kept track
4 of the ship availabilities; kept track of the scheduling,
5 of the ships that were going in and out; any issues that
6 involved the naval shipyards there was an analyst there to
7 coordinate that through Washington, that worked with the
8 rest of NAVSEA; any issues that NAVSEA, any programs,
9 things like that, that NAVSEA was putting into the
10 shipyards came through that shipyard group.
11 Q. Were you considered a shipyard analyst?
12 A. Yes, I was.
13 Q. Was that your title?
14 A. Yes -- well, I was a program analyst,
15 officially. The civil service title was program analyst.
16 Q. And for how long were you a program analyst at
17 NAVSEA?
18 A. 3 years.
19 Q. 1986 to 1989?
20 A. Um-hum.
21 Q. Who did you report to at NAVSEA when you were a
22 program analyst?

1 A. Bill Ryzewic.

2 Q. How do you spell his last name?

3 A. R-y-z-e-w-i-c.

4 Q. Now when you joined the CNO staff, did your

5 title change?

6 A. Yes, I became a supervisory logistics management

7 specialist.

8 Q. Is that the title you hold today?

9 A. Yes.

10 Q. To whom do you report today?

11 A. Directly to Captain Williams.

12 Q. And to whom did you report when you joined the

13 CNO staff in 1989?

14 A. Same, Captain Williams.

15 Q. And is Captain Williams in the OP-43 group?

16 A. Yes, he is OP-43-1.

17 Q. And what is your OP designation?

18 A. OP-43-1X.

19 Q. Did the OP-43 group exist at the time you joined

20 the CNO staff in 1989?

21 A. Yes, it did.

22 Q. To whom did Captain Williams report in 1989,

1 correctly?

2 A. Yes.

3 Q. What did you mean by that?

4 A. That is the list that the Secretary of Defense

5 came out with in January that you referred to earlier as

6 the SECDEF 17.

7 Q. And why did you say when the legislation is

8 signed by the President the previous SECDEF list is

9 officially voided?

10 A. Because that was not a closure list. As I said,

11 that was recommendations for potential candidates. And we

12 started the process over again to look at, again, the Navy

13 infrastructure in accordance with that Act.

14 Q. Are you saying to me that as of October 31, 1990

15 when you sent this E-mail message, MacKinnon No. 1 to

16 Admiral Lang, that the slate was wiped clean and the

17 working group, and the Three-Star advisory committee were

18 starting fresh? Is that your testimony?

19 A. When the legislation was signed by the

20 President -- as this memo says -- then the SECDEF list was

21 voided. There would be no candidates, no closure list.

22 And we would start over, yes. You said October 31, and it

1 wasn't necessarily as of that date. It was when the
2 legislation was signed.
3 Q. Do you know when the legislation was signed?
4 A. No, I don't.
5 Q. Is it your testimony, though, that when the
6 legislation was signed, the activities of the working
7 group -- of which you were not an official member but you
8 were reporting to Captain Williams and the Three-Star
9 advisory committee -- wiped the slate clean, and started
10 completely fresh in reviewing all closure and realignment
11 candidates?
12 A. Yes.
13 Q. Well, as of October 31, 1990, had either the
14 working group or the Three-Star advisory committee reached
15 any conclusion as to whether or not the Philadelphia Naval
16 Shipyard ought to be closed or realigned?
17 A. During the efforts of the Three-Star advisory
18 committee, yes, they had made their own conclusions by
19 that time. I believe it was by that time, yes.
20 Q. By October 31, 1990?
21 A. Yes.
22 Q. So it is your recollection that by October 31,

1 THE WITNESS: Yes.

2 BY MR. PITTINSKY:

3 Q. There was such a discussion?

4 A. I believe there was discussion from OP-44, or

5 that staff, that said that the working group would no

6 longer exist and we would start over. The group for the

7 VCNO study would no longer exist, and we would begin anew.

8 Q. Well, when did that happen?

9 A. I'm not sure of the date. That was toward the

10 end of 1990, but I'm not sure of the dates.

11 Q. Well, isn't it a fact that the Three-Star

12 advisory committee did not cease its activities until

13 after it had made its recommendations to the Secretary of

14 the Navy with respect to base closures?

15 A. And prior to the new Act, yes.

16 Q. Well, when you say prior to the new act, you

17 mean prior to the effective date of the new Act?

18 A. Prior to knowledge of the Act, I believe yes.

19 Q. Prior to knowledge of the Act?

20 A. Yes.

21 Q. Well, the Act was known to the Three-Star

22 advisory committee, at least as early as October 31, 1990,

1 its -- there were two or three different things. And I
2 was not involved in providing that. That came from
3 NAVSEA. And it was a requirement from -- I believe it was
4 part of the environmental issues, where I'm not sure what
5 that actually -- what that documentation included.
6 Q. All right, item no. 3. You write -- or you
7 wrote -- "Reconciliation of naval shipyard ranking is
8 being prepared. This will show that Philadelphia was
9 selected for closure over two lower-ranking shipyards
10 because of the NAVSEA position that all six nuclear-
11 capable shipyards are necessary to meet the nucleare
12 workload in the late 1990's." Do you see that?
13 A. Yes.
14 Q. All right, now what did you mean by that?
15 A. We had done a military value ranking and I
16 had -- that had different criteria. There were several
17 different types of criteria and it described the military
18 value of the eight shipyards.
19 I had gone over that, and what I was writing up
20 details, if you will, on how each yard was ranked,
21 according to that list of criteria. That was the
22 reconciliation that was being prepared.

1 Q. Well, when you did your military value ranking
2 initially, you found that Philadelphia came in sixth, out
3 of the eight shipyards, correct?
4 A. I can't say that that was initially. The
5 military ranking was done as part of the in-depth -- as
6 part of, I believe, both of those groups, the VCNO group,
7 and the base closure group on which I was a member.
8 Q. No, I'm talking about 1990.
9 A. Yes.
10 Q. October 1990, this memorandum that you wrote in
11 October 1990, before the working group for 1991, right?
12 A. Right. And at that point, obviously here, it
13 was at that point when yes, Philadelphia was rated sixth
14 out of eight.
15 Q. And the two shipyards which were ranked below
16 Philadelphia were Mare Island and Portsmouth, correct?
17 A. Yes.
18 Q. Which of those two was seventh and which of
19 those two was eighth?
20 A. I don't recall now.
21 Q. What were the criteria that were evaluated that
22 led Philadelphia to come in sixth, and Mare Island and

1 Portsmouth to come in seventh and eighth?

2 A. There were a number of issues that we looked at,

3 the most important being the military suitability of the

4 facilities, which included things like deployment, meeting

5 the operational requirements. We looked at everything

6 from housing to quality of life issues. We looked at

7 whether or not work force was available in the area. We

8 looked at the quality of the facilities and how that met

9 their missions, how each one of those met the missions.

10 We looked at the availability of facilities, the -- I

11 believe the highest weighted criteria was on the mission

12 suitability, which included drydocks.

13 Q. So this was a weighted evaluation of the

14 criteria you just described.

15 A. Yes.

16 Q. And the greatest weight was given to military

17 suitability?

18 A. I believe that's right.

19 Q. Who established these criteria?

20 A. They had been established as part of previous

21 base closure issues, 1988.

22 Q. All right, so that the criteria -- or criteria

1 Q. Well, I know, but you say a reconciliation is
2 being prepared?
3 A. Yes, sir.
4 Q. And what I'm asking you, is what was this
5 reconciliation that you prepared to justify in your mind,
6 jumping Philadelphia over Mare Island and Portsmouth for
7 Closure?
8 A. You're asking me what the document, itself, was,
9 correct?
10 Q. Yes.
11 A. And I just told you I do not recall which
12 document that referred to.
13 Q. Do you recall what analysis you applied to the
14 weighting system, if any, to support this reconciliation
15 and justify closing Philadelphia instead of the two lower-
16 ranking shipyards, Mare Island and Portsmouth?
17 A. The reason for skipping those two shipyards was
18 because they are nuclear-capable shipyards to accomplish
19 the workload in the late 1990's.
20 Q. I understand that.
21 A. Yes.
22 Q. But you had just done a ranking.

1 A. Yes.

2 Q. That had numbers attached to it, correct?

3 A. Yes.

4 Q. And it was based on the criteria that you just

5 described, and with certain weights given to certain

6 categories, because some categories were more important

7 than other categories.

8 A. Yes.

9 Q. With military suitability being the most

10 important.

11 A. Yes.

12 Q. So you had a list of eight shipyards.

13 Philadelphia had a number based on that number for sixth,

14 and Mare Island and Portsmouth had a lower number for

15 seventh and eighth.

16 A. Right.

17 Q. My question is, what did you do to your

18 numerical rankings so that Mare Island and Portsmouth

19 would no longer be seventh and eighth, and Philadelphia

20 would be a candidate for closure?

21 MR. BATTEN: Asked and answered.

22 THE WITNESS: We did nothing to those rankings.

1 They were still number seven and eight. The military
2 matrix that we did, that looked at the military value of
3 those organizations, did not look at that for numerical,
4 and was not weighted, did not look at the workload that
5 would be going into each shipyard. It looked at the
6 facilities themselves. It did not value the workload.
7 That was another part of the analysis.
8 MR. PITTINSKY: Could we take a 5-minute break?
9 (Brief recess.)
10 MR. PITTINSKY: Would the reporter please mark
11 as MacKinnon No. 3 for identification, a telecopier cover
12 sheet from OPNAV and attached thereto, a Mary MacKinnon
13 memorandum entitled Reconciliation of Working Group
14 Recommendations.
15 (The document referred to was
16 marked MacKinnon Exhibit No.
17 3 for identification.)
18 BY MR. PITTINSKY:
19 Q. Have you had a chance to review MacKinnon No. 3?
20 A. Yes.
21 Q. And is the attachment to the telecopier sheet a
22 document which you prepared?

1 through the year 2000 that simply list -- and I see Mrs.
2 MacKinnon sort of nodding affirmatively as I say these
3 things -- but that simply list the ships that are expected
4 to be worked on in the nuclear-capable shipyards through
5 the year 200, then I would like that information. I don't
6 think that's particularly burdensome. Isn't that pretty
7 easy to give me, Mrs. MacKinnon?
8 THE WITNESS: Yes, and it was already provided
9 as part of the documentation.
10 BY MR. PITTINSKY:
11 Q. But you do have that at your fingertips,
12 basically, right?
13 A. Yes.
14 Q. Now, in the course of your reconciliation that
15 you did that's MacKinnon No. 3, did you consider whether
16 it would be possible to eliminate a nuclear-capable
17 shipyard and assign the nuclear ship-work in that
18 particular nuclear-capable shipyard to another nuclear-
19 capable shipyard and take the non-nuclear ship-work from
20 the nuclear shipyard to which this new work was going to
21 be assigned and ship that to a non-nuclear capable
22 shipyard?

1 A. Yes.

2 Q. All right, well how did you consider that?

3 A. From those workload projections that I just

4 talked about.

5 MR. PITTINSKY: That's all the more reason, Mr.

6 Batten, why I would like them.

7 BY MR. PITTINSKY:

8 Q. And what did that workload projection show in

9 that regard?

10 A. They showed a significant amount of refueling of

11 nuclear ships in the out years, that could not be

12 accomplished with less than six nuclear shipyards.

13 Q. Well, explain to me -- well, is it your

14 testimony that in these six nuclear-capable shipyards,

15 that from 1998 to the year 2000 that all the work that is

16 going to be performed in those nuclear-capable shipyards

17 will be on nuclear ships?

18 A. No.

19 Q. Then, why would it not be possible to shift from

20 a sixth nuclear shipyard, nuclear shipyard work to the

21 other five nuclear-capable shipyards where they are

22 performing non-nuclear work?

1 A. NAVSEA-08 has particular places that they want
2 their work to go, as far as I know. I don't -- as far as
3 the nuclear ships and where they are to be assigned, and
4 the work that has to be done to them, I don't determine
5 that. I get that information from NAVSEA. And NAVSEA-08
6 made the determination on the nuclear shipyards, and the
7 requirement.
8 Q. So you -- if I understand your testimony, you
9 did not think it was your job to second-guess NAVSEA-08.
10 A. That's right.
11 Q. Where is the Mare Island shipyard located?
12 A. Vallejo, California.
13 Q. And is that in northern, central, or southern
14 California?
15 A. It's northern, south of San Francisco.
16 Q. Are there two other nuclear shipyards on the
17 west coast?
18 A. On the west coast there is Mare Island, Peugeot,
19 and Pearl Harbor -- if you want to consider that west
20 coast.
21 Q. And which of the three nuclear-capable shipyards
22 on the east coast?

1 A. Portsmouth, Norfolk, and Charleston. We also
2 have private shipyards on the east coast, in Newport News
3 and Electric Boat, EB that can do work on nuclear ships.
4 Q. Electric Boat is part of General Dynamics?
5 A. I'm not sure.
6 Q. Do you have any private shipyards on the west
7 coast that can do nuclear work?
8 A. No.
9 Q. Well, since -- again, looking at your
10 reconciliation -- since Portsmouth came in seventh, blow
11 Philadelphia, did anyone give any consideration -- to your
12 knowledge -- to closing Portsmouth and giving its nuclear
13 shipyard work to Electric Boat and Newport News?
14 A. NAVSEA.
15 Q. NAVSEA-08 or NAVSEA-07?
16 A. I would -- I do not know.
17 Q. But one of them?
18 A. One or both.
19 Q. They did give consideration to that?
20 A. I would be speculating if I said that.
21 Q. I only want you to tell me what you know. If
22 you don't know whether they did or they didn't, then you

1 should say so.

2 A. I do not know.

3 Q. So did anyone on the Base Closure working group

4 in 1990 give consideration to closing Portsmouth and

5 assigning its nuclear work to Electric Boat or Newport

6 News?

7 A. There was not -- if you would have stopped at

8 closing Portsmouth, I would have said yes. When we looked

9 at all of the shipyards and their capabilities and the

10 workload, and the people on the working group, and other

11 people involved looked at the out-year projections for

12 workload.

13 Q. Yes.

14 A. So the work that could have been moved around,

15 as you say, yes, that was looked at -- whether or not it

16 could fit into another shipyard. But the type of work,

17 and the specific hulls and ships that are assigned into a

18 nuclear yard are not a 431 determination.

19 Q. Well, did Electric Boat and Newport News have

20 facilities to do nuclear submarine re-fueling, or nuclear

21 carrier re-fuelings?

22 A. I don't know.

1 Q. Is it fair to say, Mrs. MacKinnon, looking at
2 your reconciliation, MacKinnon No. 3, that the basis in
3 this reconciliation, MacKinnon No. 3, for leaping
4 Portsmouth and Mare Island over Philadelphia, and choosing
5 Philadelphia for closure was simply the fact that the
6 projected workload in fiscal year 1998 through 2000
7 required six nuclear naval shipyards?
8 MR. BATTEN: The document speaks for itself, but
9 she can answer.
10 THE WITNESS: No, that was the reason for the
11 retention, at this point in time, of six nuclear
12 shipyards. However, the closure of Philadelphia decision
13 was based on much more than that. That was based on the
14 elimination of the SLEP with the down-sizing of the force
15 structure.
16 BY MR. PITTINSKY:
17 Q. Well --
18 A. The workload --
19 Q. Do you see where, this page, on the bottom of
20 the page, I'm talking about the third page of the
21 document, with the Bates number 490, the very last
22 paragraph refers to Long Beach. Do you see that?

1 Q. Does that apply to Philadelphia?

2 A. Activation capability, yes.

3 Q. The next is co-located major combatant

4 drydocking, repair, and battle damage capability. Do you

5 see that?

6 A. Yes.

7 Q. Does that apply to Philadelphia?

8 A. No.

9 Q. No?

10 A. The co-located, I think applied to a home port

11 issue.

12 Q. What do you mean by a home port issue?

13 A. The ships are located near -- the major part of

14 the fleet is located in a southern California area. And

15 we were talking -- I believe that that bullet meant that

16 it was co-located with the home port of major fleet

17 concentrations.

18 Q. Well, isn't it a fact that when the working

19 group, in 1991 addressed that issue, it was determined

20 ultimately that home-porting was not of any consequence?

21 A. No, sir.

22 Q. That's not a fact?

1 A. No.

2 Q. Do you know whether the Base Structure Committee

3 in 1991 determined that home-porting was of no consequence

4 in determining the importance of shipyards?

5 A. No, I do not know that to be a fact.

6 Q. All right -- I'm sorry, did you want to add

7 something?

8 A. Yeah, I'd like to add something.

9 The bullets that you just spoke to are some of

10 the areas that we looked at in all of the shipyards. And

11 we were looking in this paper at only two. Those are

12 minor types of capabilities that Long Beach provides,

13 compared to the things that you skipped over in the

14 beginning, which is the mission suitability, the

15 availability of facilities, the types of drydocks -- that

16 was a key factor --

17 Q. That was a key factor?

18 A. Absolutely -- the quality of facilities, those

19 things that we used that were, in our judgment, were

20 justification for retention of that naval asset. Okay?

21 They were -- above that we talked about the SLEP going

22 away, which was the primary workload at Philadelphia. And

1 workload reductions being the reason that we were looking
2 at the infrastructure in the first place.
3 Q. Well, what is the status of the drydocks at
4 Philadelphia?
5 A. They're being preserved in this.
6 Q. No, my question is misleading. What I mean is,
7 what kind of drydocks does Philadelphia have?
8 A. Philadelphia has two, large, carrier-capable
9 drydocks.
10 Q. What does Long Beach have?
11 A. They have one, large, carrier-capable drydock.
12 Q. Well, then --
13 A. There are other docks available on the east
14 coast. The workload that was going away was east-coast
15 workload, specifically Philadelphia workload. There is a
16 difference in the east-coast/west-coast issue. If you
17 were to close a yard on the west coast, for example, the
18 workload was not going to go away from those yards. You
19 would have had to move that workload into another
20 shipyard.
21 In the case of Philadelphia you didn't have to
22 do that. the SLEPs were going away.

1 Q. In any event, you said availability of facility,
2 the types of drydocks are a key factor in this dock.
3 Didn't you say that?
4 A. Yes.
5 Q. All right, and in the case of Philadelphia, it
6 has two, large, carrier-capable drydocks, and Long Beach
7 only has one, right?
8 A. Yes.
9 Q. And Philadelphia is known for its expertise in
10 handling amphibious and Aegis ships, right?
11 MR. BATTEN: Known where? You can answer the
12 question.
13 THE WITNESS: No.
14 BY MR. PITTINSKY:
15 Q. You don't think Philadelphia is known for that?
16 A. No, I do not.
17 Q. I see.
18 Have you reviewed the performance of
19 Philadelphia on amphibious and Aegis ships?
20 A. No, I have not.
21 Q. Do you know whether Philadelphia is more
22 profitable than Long Beach?

1 MR. BATTEN: Objection -- the term profitable is
2 vague.
3 THE WITNESS: Well, exactly, I don't know what
4 you mean by profitable. We have no one, major way of
5 looking at the Fiscal efficiencies of shipyards. There
6 are many factors.
7 BY MR. PITTINSKY:
8 Q. Well, have you ever heard of AOR?
9 A. Yes.
10 Q. And what is AOR?
11 A. It is the Accumulated Operating Result.
12 Q. And the Navy maintains information on the AOR
13 for each of the eight naval shipyards, correct?
14 A. Yes.
15 Q. And doesn't the AOR show that for fiscal year
16 1989 and fiscal year 1990, and for the first 9 months of
17 1991 that Philadelphia had the best results, based on AOR
18 in comparison to the other seven naval shipyards?
19 A. I don't know, and I don't know what goes into
20 the determination of the AOR.
21 Q. You don't know the answer to that question.
22 A. That's right.

1 that time. This was 90.

2 Q. Yes, this was October 30, 1990.

3 A. Right.

4 Q. It's already called Tab C.

5 A. Right.

6 Q. So the same, essential information that was

7 being used by the advisory committee for its Tab C was

8 later used by the Base Structure Committee for its Tab C.

9 MR. BATTEN: Objection, that's not what she

10 said.

11 MR. PITTINSKY: Well, then tell me where I'm

12 wrong.

13 THE WITNESS: No, I don't know that.

14 BY MR. PITTINSKY:

15 Q. Well, tell me what was the Tab C that is

16 referenced in MacKinnon No. 4?

17 A. I believe Tab C was their report that had to do

18 with the shipyards. There were many other bases, as I

19 said.

20 Q. The Three-Star advisory committee report?

21 A. I don't -- no, the OP-44 documentation.

22 Q. All right, but you see, if you look at the

1 CV-64 SLEP", correct?

2 A. Yes.

3 Q. So not only was it being recommended for closure

4 as of October 31, 1990, it was also subject to an

5 implementation plan and timeline to be closed after

6 completion of CV-64 SLEP, correct?

7 A. You'll notice the date on that is pending

8 Congressional decisions. Those decisions had not been

9 made. We had to, at some point, develop an implementation

10 plan for whatever bases were on the closure list.

11 Q. Right, and the completion of the CV-64 SLEP was

12 the reference to the U.S.S. Constellation, correct?

13 A. Yes.

14 Q. So as of October 31, 1990, you had submitted to

15 Admiral Lang, Captain Williams and others, a list of base

16 closure action items which included writing a

17 justification for passing up the lower-ranked shipyards to

18 select Philadelphia for closure, that included determining

19 which list the Philadelphia closure should appear on, and

20 which included developing an implementation plan, and

21 timeline, to close the Philadelphia Naval Shipyard after

22 completion of the 64-SLEP. Correct?

1 A. Yes, and this document combines the efforts that
2 were being -- the actions that were necessary as a result
3 of the VCNO study, and the up-coming study of the -- under
4 the Act, which cancelled everything prior to that.
5 Q. But it didn't.
6 A. So it combines these things, just like this
7 MacKinnon No. 1 does.
8 Now when you talk about -- in this particular
9 paragraph or action item it says, "Determine which list
10 the Philadelphia closure should appear, Fiscal Year 1991,
11 1993, or 1995" list was just, on my part, a bad choice of
12 words. There are three different commissions to look at
13 base closure -- 1991, 1993, and 1995. What that meant was
14 when is the best time to look at Philadelphia for closure.
15 Determine that.
16 So I was determining at that point -- we still
17 had not determined that under the new Act --
18 Q. Mrs. MacKinnon, isn't it a fact that if it was
19 going to be closed, after the completion of the CV-64
20 SLEP, it would have to be on the Fiscal Year 1991 list?
21 A. Under the VCNO study, that was the
22 recommendation.

1 Q. Close it in Fiscal Year -- to start the closure
2 in Fiscal Year 1991, correct?
3 A. No.
4 Q. To be on the 1991 list.
5 A. See there was no 1991 list. You're confusing
6 the 1991 list, the 1993 list, the 1995 -- with the VCNO.
7 And those are separate issues. There was no 1991 list
8 with the VCNO. That was just the VCNO list. It was a
9 recommendation to SECNAV.
10 Q. Yes, and what was the recommendation of the
11 Three-Star advisory committee for closure of the
12 Philadelphia Naval Shipyard in terms of the timing of it?
13 A. To close the shipyard after the workload went
14 away.
15 Q. After the workload on the CV-64 SLEP, correct?
16 A. The rest of the workload was not yet determined.
17 The plan was -- at that point, the plan was to
18 close -- would be the most opportune time, appropriate
19 time to close would be after the CV-64 SLEP, yes. But
20 that implementation plan that this speaks to is something
21 that had to be done at some point. And again, that says
22 pending congressional decisions. We were not going to do

1 Q. By November 20, 1990, correct?

2 A. That is the date I obviously was shooting for.

3 Q. So it wasn't just for you.

4 A. But it was not a requirement of the Admirals' or

5 anyone else's.

6 Q. I didn't say it was a requirement. It was your

7 intent -- it was your intent.

8 A. Yes.

9 Q. To provide to Captain Williams and Admiral Lang

10 by November 20, 1990 a review of OP-44's revised ranking

11 criteria for base closures and comparison of shipyards

12 using the new criteria, correct?

13 A. Yes

14 Q. Very good.

15 Now, as of November 16, 1990 when this document

16 was prepared, there was in existence the Three-Star

17 Advisory Committee, correct?

18 A. I don't know if whether they had folded at that

19 point or not.

20 Q. All right, well I'll refresh your recollection

21 after lunch on that subject.

22 A. Okay.

1 Q. Isn't it a fact that the base -- that the 1991
2 Base Structure Committee, which ultimately made the
3 recommendations in 1991 for closure and realignment of
4 naval bases was not yet in existence as of November 16,
5 1990?
6 A. We knew that there was legislation. And I said
7 before, I'm not sure exactly when that legislation was
8 signed. And we knew that there was going to be -- at this
9 point we're talking about new criteria -- that was going
10 to be used during that review. So I'm not sure what you
11 mean by being in existence, whether the Act had been
12 signed or not?
13 Q. I'm saying that -- you became part of the base
14 closure working group in 1991 for the 1991 Base Structure
15 Committee, correct?
16 A. Yes.
17 Q. That 1991 Base Structure Committee, itself, was
18 not in existence as of November 16, 1990, correct?
19 A. You're talking about two over-lapping studies.
20 And I am not certain about the dates when they over-
21 lapped, and when we actually started, as my participation
22 on one group, and the winding-down of another group.

1 A. That's what it looks like, yes.

2 Q. Isn't that what it says on the first page?

3 A. Yes.

4 Q. Now, on the second page of MacKinnon No. 8, you

5 have six numbered paragraphs, correct?

6 A. Yes.

7 Q. And the very first one you state, the Phase 1

8 data previously submitted to OP-44 is to be revalidated.

9 I have reviewed and see no necessary changes. Will pass

10 to 431 and 43 today. Do you see that?

11 A. Yes.

12 Q. What was the Phase 1 data?

13 A. That was the activity overview that had spoke to

14 the land summary, things like that. And it also described

15 the military rankings we had done and what we had looked

16 at that time for the military values.

17 Q. And that, so far as the shipyards were

18 concerned, that ranking showed Philadelphia coming in

19 sixth and Portsmouth and Mare Island coming in seventh and

20 eighth. Correct?

21 A. Yes.

22 Q. And it was your conclusion that you saw no need

1 for any changes to that data. Correct?

2 A. Yes.

3 Q. Now in paragraph 2 you stated, I am putting

4 together a comparison of the Naval shipyards against the

5 proposed base closure criteria to be used in this next go

6 round. It is generic and it doesn't appear that it would

7 result in any differences than the last time we "ranked"

8 the shipyards. I will pass to 43 and 431 when in final

9 draft form. Do you see that?

10 A. Yes.

11 Q. So therefore, it was your opinion that utilizing

12 the propose base closure criteria pursuant to the 1990

13 Base Closure Act would not change the rankings of the

14 shipyards.

15 A. What I was doing was comparing the military

16 rankings that we had done and the criteria we had used

17 there with the new criteria that we discussed back here in

18 this other exhibit, No. 7.

19 Q. No. 7?

20 A. Yes. There is that attachment, the base closure

21 and realignment criteria.

22 Q. The Bates number page 47?

1 A. Yes.

2 Q. That is entitled Base Closure and Realignment

3 Criteria?

4 A. Yes. What I was saying there is I was comparing

5 the military rankings that we had done based upon the

6 military criteria we'd used against this to see if they

7 still fit.

8 Q. Right. And based upon utilizing the base

9 closure and realignment criteria which are on the page

10 Bates number 47, in MacKinnon No. 7, you came to the

11 conclusion that the numerical rankings of the eight

12 shipyards would not change, correct?

13 A. Yes. That was based upon the force structure

14 that we knew at the time.

15 Q. And so therefore, based upon your application of

16 the base closure and realignment criteria on the page with

17 Bates number 47 in MacKinnon No. 7, Philadelphia would

18 still be sixth, and Mare Island and Portsmouth would still

19 be seventh and eighth. Correct?

20 A. I don't think I meant that. No, I don't know

21 what the rankings would be. All I was saying was that the

22 criteria fit the military criteria. There was not

1 anything new that we needed to look at, and the rankings
2 that we had. I don't think I was speculating as to
3 whether or not they might change their positions.
4 Q. Mrs. MacKinnon, look at the second sentence,
5 please of paragraph number 2 of the second page of
6 MacKinnon No. 8, you state, it is generic and it doesn't
7 appear that it would result in any differences then the
8 last time we "ranked" the shipyards. Do you see that?
9 A. Yes.
10 Q. Now didn't you mean by that sentence that the
11 numerical rankings of the eight shipyards would not change
12 if you applied the base closure and realignment criteria
13 on page number 47 of MacKinnon No. 7?
14 A. What I believe I meant by that was that the
15 criteria that we had used for the military rankings would
16 not change.
17 Q. Well, the military rankings were given the
18 greatest weight in your listings.
19 A. There was a military value array that was used
20 that I said included a number of different things. The
21 military rankings according to this criteria, yes, gave --
22 the new criteria gave the greatest value to the military

1 rankings. What I was doing was just comparing the
2 criteria that we had used to see if what we had done was
3 still appropriate. And I thought at that time, as this
4 says, that there would not be any differences.
5 Q. Let's go back a step just so it's clear. Would
6 you look at MacKinnon No. 3, please?
7 A. Yes.
8 Q. And the second page, your reconciliation.
9 A. Yes.
10 Q. And in that document you listed on the first
11 page the numerical scores and the rankings of the eight
12 shipyards, correct?
13 A. Yes.
14 Q. And that showed that Philadelphia came in sixth
15 with a score of 274, Portsmouth came in seventh with a
16 score of 263, and Mare Island came in eighth with a score
17 of 215.
18 A. Yes.
19 Q. Those rankings and those scores, you testified
20 this morning, were based on certain criteria which were
21 evaluated and given weights.
22 A. Yes.

1 Q. And the greatest weight was given to the
2 military criteria.
3 A. It was all military criteria. The greatest
4 weight was given to the site specific and deployment
5 issues.
6 Q. So based upon the military criteria that led to
7 the rankings that are set forth on the second page of
8 MacKinnon No. 3, Philadelphia came in sixth, Portsmouth
9 seventh, and Mare Island eighth. Correct?
10 A. Yes.
11 Q. Now what you did is you took the base closure
12 and realignment criteria on page 47, Bates 47 of MacKinnon
13 No. 7, and you kept in mind that the first four items were
14 to be given priority because they were the military items.
15 And you looked at the same rankings that you had
16 previously arrived at, correct?
17 A. No. What I looked at was that criteria compared
18 to the criteria --
19 Q. That criteria being the criteria on the fourth
20 page, Bates 47 of MacKinnon No. 7?
21 A. Right. I looked at that compared to the
22 criteria that we had used to come up with this ranking.

1 Q. And you saw that there were sufficient
2 similarity between the criteria so that you came to the
3 conclusion the military rankings, the numerical rankings
4 on the second page of MacKinnon No. 3 would not change.
5 Correct?
6 A. No, sir. I came to the conclusion that the
7 military criteria that we had used in our rankings would
8 not change. I don't think I was speculating whether or
9 not the placement of any shipyard would change. I thought
10 that they matched, the criteria matched sufficiently.
11 Q. Would you look again at paragraph 2, please?
12 A. I see it.
13 Q. I am putting together, you say, a comparison of
14 the Naval shipyards against the proposed base closure
15 criteria to be used in this next go round. It is generic
16 and it doesn't appear that it would result in any
17 differences than the last time we "ranked" the shipyards.
18 Now when you said ranked, weren't you referring to the
19 rankings on the second page of MacKinnon No. 3?
20 A. Yes, I was.
21 Q. So you are saying in this sentence, the second
22 sentence of paragraph 2 that if you look at the shipyards

1 and you compare them to the new proposed criteria for
2 closure it is not going to result in any difference in the
3 rankings.
4 MR. BATTEN: Asked and answered.
5 THE WITNESS: I did not say that. In this memo
6 I did not say that. What you're looking at, I'm saying
7 here I am putting together a comparison. I had just
8 started to put together that comparison. The only thing I
9 had done at this point was look at the base closure
10 criteria, the proposed base closure criteria, and compared
11 it against the criteria we had used in the military value
12 array. And I had determined in my own mind that there
13 were insignificant differences.
14 BY MR. PITTINSKY:
15 Q. And therefore, it would not result, as you said,
16 in any differences from the last we ranked the shipyards.
17 Correct?
18 A. Any differences in the criteria, yes.
19 Q. Now would you look at paragraph 4, the second
20 page of MacKinnon No. 8, please?
21 A. Yes.
22 Q. You state, The stealth list will become the 1991

1 advisory committee?

2 A. These are overlapping groups. We had the

3 Three-Star Advisory group that the VCNO study, and we had

4 the group that I was a working member of that was the next

5 effort to go back and re-look and validate the data and do

6 a new analysis to determine if those recommendations that

7 we had made were still appropriate.

8 Q. Well, to which body did the working group that

9 you refer to on November 16, 1990 report?

10 A. The working group didn't report to a body. We

11 gathered data. The OP-44 was the consolidation point for

12 that data. OP-43 made recommendations on the shipyards.

13 I personally reported to Admiral Lang. And we made

14 recommendations on the shipyards.

15 Q. I will ask you the question again. To what

16 body, what group, what entity did the working group

17 referenced in paragraph 6 as of November 16, 1990 report?

18 MR. BATTEN: Asked and answered.

19 THE WITNESS: We did not answer to a body.

20 BY MR. PITTINSKY:

21 Q. Then tell me why it is that in the bottom of

22 your E-mail message you have next working group meeting 20

1 listed and discussed, correct?

2 A. Yes.

3 Q. You then say on page 1, Again, it is basically

4 the same as the previous criteria except: 1. Items 1 to 4

5 will be given priority consideration to military value

6 during the selection process, and 2. there is no payback

7 period to be considered.

8 A. Yes.

9 Q. Was that your understanding at the time?

10 A. Yes.

11 Q. Is that still your understanding today?

12 A. Yes.

13 Q. Now would you turn please to the page Bates

14 numbered 498?

15 A. Yes.

16 Q. There, after the ninth criterion is a tenth

17 criterion entitled Miscellaneous, Unique Considerations.

18 Do you see that?

19 A. Yes.

20 Q. Am I correct, therefore, that this tenth

21 criterion was not part of the new base closure criteria

22 paragraphs 1 through 9?

1 somewhere. Those changed a number of times based on new
2 estimates coming in from NAVSEA, and things like that,
3 manpower implications. I think there's another one in the
4 file dated March, and then one dated April with the same
5 kind of title: Revalidation of the Naval Shipyards. It
6 was constant refining of the information and the final,
7 what you see here in December, may or may not be the same
8 one that was on the same ranking.
9 The final ranking here was not the same as what
10 you will see on the later editions of this document. For
11 example, I know that the nuclear capability at some point
12 later was downgraded to 25 points, and there were a number
13 of issues that caused us to go back and relook this
14 document and redo the information that is in here.
15 Q. Well, I think you told me it was Admiral Lang
16 who made the determination that nuclear capable shipyards
17 should be treated in this unique manner. My question is
18 who determined that a nuclear capable shipyard should be
19 given 50 bonus points?
20 A. The original 50 bonus points also came from
21 Admiral Lang. But the number 50 is what you're asking?
22 Q. Yes.

1 see that?

2 A. Yes.

3 Q. Who was the 431 you are referring to?

4 A. That was myself and the Captain, I guess. But

5 it was certainly not done in a vacuum. It goes back to

6 this revalidation, MacKinnon No. 15, where we discussed

7 the nuclear rankings and all that.

8 Q. So your testimony is that you simply put the

9 numbers into the rankings that you were ordered to put

10 into the rankings, by Admiral Lang?

11 A. I wasn't ordered.

12 Q. Well, directed.

13 A. The decision was made that some bonus points

14 needed to be in there to reflect the importance of the

15 nuclear capability, and I put those in there.

16 Q. And Admiral Lang made that decision?

17 A. Yes.

18 Q. And he was your superior?

19 A. Yes.

20 Q. Now, in the second paragraph of this document

21 you state: "The 431 cost estimate to close Philadelphia

22 Naval Shipyard is $70 million. NAVSEA has not concurred

1 with this estimate. Their latest official estimate is
2 $351 million."
3 A. Yes.
4 Q. Did anyone, to your knowledge, make any attempt
5 at any time, subsequent to December 19, 1990, to reconcile
6 the OP-431 estimate of $70 million with the NAVSEA
7 estimate of $351 million?
8 A. Of course. We were working very closely with
9 NAVSEA in trying to reconcile all of the data that we had
10 and those cost estimates changed a number of times or the
11 savings to be had changed a number of times, depending on
12 the scenario. This was again -- this was a continuing
13 process where the numbers were continually being refined.
14 New data was available, changing scenarios.
15 Q. Well, do you recall what the final figure was
16 that NAVSEA and OP-431 signed off on for the cost of
17 closing the Philadelphia Naval Shipyard?
18 A. The final figure was calculated by COBRA.
19 Q. Well, did OP-431 agree with the COBRA figure?
20 A. I don't know that we disagreed with the COBRA
21 figure. When the Base Structure Committee met they had
22 COBRA data that had been calculated within the very recent

1 past, a couple of days. I'm not sure -- I don't recall
2 right at the moment whether or not we agreed with every
3 bit of that, because we had had a lot of discussions with
4 NAVSEA and with OP-44, who were running the COBRA model.
5 Q. Wasn't there some concern within the 1991
6 working group that the COBRA model was not reliable?
7 A. There was concern that it did not reflect the
8 Navy/industrial funded activities, because their work is
9 reimbursable to the NIF fund. So that model was not set
10 up to reflect NIF-funded activities.
11 However, Captain Kalas from 07F, who did an
12 extensive amount of work for that committee -- the working
13 group committee worked very closely and had held several
14 meetings with OP-44 and the people that were using and
15 running that COBRA model to, in fact, alleviate those
16 concerns and I think -- I believe, at the end of that --
17 you would have to ask him -- that he was satisfied that
18 that was a reasonably a good product.
19 Q. That was Captain Kalas?
20 A. Captain Kalas.
21 Q. Now what did you mean when you said reimbursable
22 to the NIF fund and would you spell NIF or whatever?

1 combination of 431, NAVSEA, with input from information
2 from other OP-NAV codes, and then the NAVSEA input -- I
3 couldn't tell you where all that came from. They have
4 access to a lot of data. But you say the working group
5 came up with these rankings and they did not. Okay.
6 Q. Well, let me amend the question. Given the
7 rankings, the revised rankings which showed that Mare
8 Island, even with the benefit of the 50 bonus points still
9 came in last, why didn't the working group recommend that
10 Mare Island be closed, rather than Philadelphia?
11 A. There were a number of reasons why we felt that
12 Philadelphia was the appropriate candidate for closure.
13 There was the nuclear issue, that we needed the nuclear
14 shipyards, including Mare Island.
15 Q. Well, but that issue was --
16 A. Wait a minute, let me stop you for a second.
17 Wasn't that issue determined by giving the 50 bonus
18 points?
19 A. Yes.
20 Q. Well, after giving the 50 bonus points, Mare
21 Island still came in last.
22 A. Yes.

1 Q. So you mean you counted it a second time?

2 A. No. May I go on? There were other --

3 Q. The nuclear issue. Go ahead, I'm sorry.

4 A. There was the nuclear issue. There was the fact

5 -- the main issue was that the budget reductions required

6 force reductions, which required the elimination of the

7 SLEP's because we no longer had the requirement for 15-

8 carrier battle groups.

9 We were now down to speculating anywhere -- at

10 this point we were still speculating, I believe, from

11 anywhere from 9 to 12 aircraft carriers. That was the

12 main consideration, and that was the consideration that

13 would make Philadelphia the appropriate candidate for

14 closure.

15 Had we closed Mare Island, they still had the

16 work. The work would have to be reassigned to another

17 shipyard. They also have -- Mare Island has a unique

18 ocean engineering capability. There are a lot of elements

19 that came into play, other than just a nuclear/nonnuclear

20 issues.

21 Q. Well, --

22 A. And as I said, the workload, which was the main

1 driver in these decisions, was not considered in this
2 numerical ranking.
3 Q. Well, is it your testimony, therefore, looking
4 at MacKinnon 15, that the criteria that were promulgated
5 pursuant to the 1990 Base Closure Act, criteria 1 through
6 9, did not include at all what were to be the expected
7 requirements for the shipyards in the years 1991 through
8 2000?
9 A. The criteria that addressed current and future
10 mission requirements and the impact on the operational
11 readiness of the Navy addressed the mission suitability,
12 if you will, of that shipyard being able to accomplish its
13 mission. For example, if a nonnuclear shipyard had the
14 facilities to accomplish nonnuclear, then it had the
15 ability to accomplish its mission. It wasn't downgraded
16 because it couldn't do nuclear work. You see what I mean?
17 Q. No. Maybe you don't understand my question.
18 A. Maybe not.
19 Q. My question is this, and I will try to lay a
20 foundation for it.
21 It's your testimony that there were two reasons
22 why, despite the fact that Mare Island still came in last

1 after the 50 bonus points for being nuclear capable, that
2 Philadelphia was recommended for closure. And when I
3 asked what those two were, you said one was the nuclear
4 issue, but, more importantly, I think you said, was the
5 fact that the budget reductions would require force
6 reductions which, in turn, would require elimination of
7 the SLEP's. And therefore, when you looked at the need
8 for the Philadelphia Naval Shipyard in the years 1991
9 through the year 2000, you determined that there was less
10 of a need for Philadelphia than for Mare Island. Is that
11 a fair summary?
12 A. That's right.
13 MR. BATTEN: Just to be clear, she also
14 mentioned Mare Island's ocean engineering facility as a
15 third thing.
16 BY MR. PITTINSKY:
17 Q. Now my question is, focusing on what you said
18 about the budget reduction requiring force reduction
19 requiring, in turn, elimination of the SLEP's and that
20 having the impact on the actual need for the Philadelphia
21 Naval Shipyard, whether that factor was at all considered
22 in any of the nine criteria that were promulgated pursuant

1 to the 1990 Base Closure Act?

2 A. It was considered in addition to those criteria.

3 Q. So it was not considered --

4 A. Specifically.

5 Q. -- in any of the nine?

6 A. Right.

7 Q. Is that your understanding?

8 A. Well --

9 Q. Take your time. There is no rush.

10 A. The only thing -- the reason I'm hesitating is

11 because we talk about the current and future mission

12 requirements.

13 Q. In criterion 1?

14 A. Yes. In criterion 1. And the subelements of

15 that were deployment relationships, site-specific

16 survivability, maneuver of space, those things would not

17 address work load, so yes. Your statement is a good

18 summarization of that. These nine criteria did not

19 consider the workload issue, which we considered to be the

20 driver and the determination of why Philadelphia should be

21 the appropriate candidate over another shipyard.

22 Q. All right. Now, isn't it a fact that in the

1 A. Yes. You have the definition to red, yellow,
2 green. Okay? These are the definitions that were
3 provided to the Base Structure Committee during the
4 presentation on the 12th of February. Members of the
5 committee had a lot of questions about these and how we
6 determined these specific elements.
7 For example, while we thought ready access to
8 significant quantities of unrestricted navigable water was
9 important or whatever. They had a lot of questions about
10 this. They asked us to go back and re-look at some of
11 these elements. And in fact, some of the members
12 disagreed with our rankings.
13 If you go to the last 2 pages of this document
14 you have the red, yellow, green matrix there. Okay? You
15 will notice that under units of measure it talks about
16 strategic requirements, proximity to fleet home port,
17 policy. Okay? Those were the rankings and the units of
18 measure that we looked at. And some of which were changed
19 from the 12 February meeting.
20 So what you have here is when this document was
21 given to the Base Structure Committee, the pages that list
22 the explanation of break points which starts on page 306

1 discuss the first red, yellow, green matrix. Then you
2 have another red, yellow, green matrix that was presented
3 on the 14th of February which was different. Okay? So
4 you have a mixed up document here. This matrix does not
5 match these elements explanation of break points.
6 Q. I understand that. That's a very helpful
7 explanation. Let me ask this question.
8 The color codings in the form of pages 312 and 313 that
9 were presented on February 12, 1991 to the BSC were
10 presented by the working group?
11 A. They were presented by OP-44.
12 Q. But the working group had prepared the color
13 codings?
14 A. No, we had not. Well, yes. I mean, in effect,
15 yes.
16 Q. And the color codings that were prepared on
17 February 12, 1991 were based on the form of evaluation
18 represented by pages 306 through 311?
19 A. That's right.
20 Q. Of MacKinnon No. 17?
21 A. Yes.
22 Q. Some of the members of the BSC disagreed with

1 some of the color-coded rankings presented on February 12,
2 1991?
3 A. Yes.
4 Q. And as a result they were revised in some way
5 and represented on February 14, 1991 in the form of
6 pages 312 through 313 of MacKinnon No. 17?
7 A. Yes. What was revised was the specific elements
8 in some cases. You will notice for example that on
9 page 306 here the first element is, 1, mission
10 suitability, a, site specific. And that criteria was
11 changed to mission suitability, strategic requirement.
12 Different things were looked at.
13 The units of measure is what changed.
14 Q. The units of measure changed?
15 A. Yes.
16 Q. in all cases or some cases?
17 A. No, some cases. There are other documents that
18 describe the new units measure that you haven't brought
19 out yet. The one that I gave you as an example, site
20 specific, talks to ready access to significant quantities
21 of water.
22 Q. Yes.

1 A. And yet the unit of measure on the chart back
2 here shows the strategic requirement and the unit of
3 measure was does that shipyard meet the strategic
4 requirements set forth by OPNAV.
5 The third one, relationships, speak to, on the
6 back document, speak to home port policy. Okay? We're in
7 the first explanation of break points relationships spoke
8 to the commuting distance for the ship's force. There
9 were a couple of different things there. I just wanted to
10 point that out.
11 Q. I think that's very helpful. Now, looking at
12 the revised color coded list, I note that is pages 312
13 to 313.
14 A. Yes.
15 Q. I note that there is again a nuclear capable
16 category, is that correct?
17 A. Yes.
18 Q. Now as I understand it and I'm to, again,
19 pages 312 and 313 are the revised rankings presented on
20 February 14?
21 A. Yes.
22 Q. When members, as you've said, disagreed. On

1 what did they base their disagreement?

2 A. There were a couple of things. One of the

3 things that was brought out was what do I care if it has

4 deep water. One of the things was we had rated quality of

5 life issues like bachelor housing and family housing. And

6 some of the members of the Base Structure Committee said,

7 why didn't you give this facility credit for having

8 bachelor housing? I know there is a BEQ next door.

9 Well, what we were looking at in the first go

10 round, for example, on housing was we were only supposed

11 to give the facility credit for housing if it was on that

12 facility. And we could not give them credit for that

13 quality of life element if the housing, in fact, existed

14 next door at the Naval station.

15 And some of the members of the Base Structure

16 Committee said, well, that doesn't make much sense. If

17 it's in the vicinity, let's give it credit. So we went

18 back and did that.

19 MR. PITTINSKY: Would the reporter please mark

20 as MacKinnon 18 for identification a document entitled

21 "Navy Shore Infrastructure Review Naval Shipyard Category,

22 Base Structure Committee, 12 February, 1991."

1 several months. We continued to update our information
2 and rankings changed. Information changed.
3 I can't say that this 18 December document or -
4 - excuse me, this 19 December document, number 16 here, is
5 the last that I saw of numerical rankings prior to
6 February. It is the last one you have in front of me
7 here, but I can't tell you for a fact that that is the
8 ranking value at that point when it went to the Base
9 Structure Committee.
10 Q. Well, sitting here today based on your
11 recollection you don't know of, you can't pinpoint a
12 particular revalidation of the shipyards which you
13 performed which based on scores and numbers showed
14 Philadelphia going from 7th to 8th before February 12,
15 1991?
16 A. I can't tell you what the date of that document
17 would be, no.
18 Q. Now is it your testimony, Mrs. MacKinnon, that
19 after the presentations were made by OP-44 to the BSC on
20 February 12 and 14, 1991, which included the color
21 codings, that the BSC actually considered whether or not
22 they wanted to close or realign the Norfolk, Virginia

1 nuclear-capable shipyard?

2 A. I can't tell you what they did after that during

3 any of their deliberations.

4 (Pause.)

5 Q. In the course of the working group's activities

6 in 1991 of which you were a part, did you or anyone else

7 at the working group, to your knowledge, give any

8 consideration to the costs of performing work in

9 Philadelphia in comparison to the cost of performing work

10 at the other naval shipyards?

11 A. Yes.

12 Q. How did you give that weight?

13 A. It was NAVSEA's position that if work were moved

14 from Philadelphia to, for example, Norfolk, that there

15 would be a rate differential because they had a higher

16 man-day rate. It was OP-43's position that that is not

17 necessarily so because Philadelphia historically had taken

18 longer, more man-days, to complete work. Therefore, the

19 man-day rate was not necessarily by itself something you

20 needed to look at.

21 The other part of that was that when you move

22 work into Norfolk, you have a larger work base to spread

1 your overhead over.

2 So our position was that the rate differential

3 was, in fact, a minor issue. They came in, NAVSEA came in

4 more than once, I'm not sure how many times, with their

5 estimates on what that rate differential should be. And

6 it was a final consideration that we allowed to be

7 presented to the Base Structure Committee.

8 Q. Are you finished?

9 A. Yes.

10 Q. Did you or anyone else on the 1991 working group

11 give any consideration to the difference in cost for

12 performing work in Philadelphia as compared to Mare Island

13 or Portsmouth?

14 A. I believe at the time the scenario we were

15 looking at was moving the Forrestal to Norfolk. There

16 was, at one point we looked at moving the Forrestal to

17 Puget. I don't recall that we specifically looked at

18 moving workload to Mare Island or Portsmouth.

19 However, again I would like to say that there

20 was no workload after the two ships that were tentatively

21 scheduled there. So when you're talking about moving

22 workload, that is the assumption that there is workload to

1 move.

2 Q. Well, you've already testified that there was

3 non-nuclear work being performed in nuclear-capable

4 shipyards.

5 A. But the workload that was projected for

6 Philadelphia, there was only the SLEP on the Kennedy, the

7 Forrestal just prior to that, and way back in the 1989

8 time frame there were some smaller availabilities out

9 there. There was also another SLEP on the USS America

10 that had subsequently, it had been determined that that

11 SLEP would not be done. And so, the workload for

12 Philadelphia was going away.

13 So there was only certain ships, the Forrestal

14 and the Kennedy that were even considered as far as moving

15 the workload and any cost differential because that is all

16 the work that was there.

17 Q. But we've already established there was non-

18 nuclear work being performed in nuclear-capable shipyards,

19 correct?

20 A. Yes, we established that. But that is not

21 necessarily, that was not necessarily assigned to

22 Philadelphia.

1 Q. I understand that. But my point is if non-
2 nuclear work had been assigned from a nuclear-capable
3 shipyard to Philadelphia then you would have had more non-
4 nuclear work in Philadelphia, correct?
5 A. You're assuming that somebody would make the
6 decision to move work, for example, and I'm asking now,
7 would move work from Portsmouth into Philadelphia?
8 Q. Yes.
9 A. Did we look at assigning that?
10 Q. Yes. Well, let me put it this way. You looked
11 at taking work out of Philadelphia and assigning it to
12 Norfolk, correct?
13 A. Yes.
14 Q. So why not look at taking non-nuclear work out
15 of Portsmouth, which is on the east coast, and assign it
16 to Philadelphia?
17 A. Because Portsmouth work wasn't what was going
18 away. Philadelphia's work was what was going away. We
19 were looking at the residual work after the SLEPs at
20 Philadelphia. And I couldn't speak for any other part of
21 NAVSEA that might have looked at that.
22 MR. PITTINSKY: Would the reporter please mark

1 Q. If you would look, please, at the page number,
2 Bates page number 71.
3 A. Yes.
4 Q. You see certain rates or costs listed there, am
5 I correct?
6 A. Yes.
7 Q. And actually they are set forth for 1991, 1992,
8 and 1993, correct?
9 A. Yes.
10 Q. And if you look just at the comparison between
11 the Philadelphia and Portsmouth, you see that in the
12 repair category there is approximately a $40 difference,
13 correct?
14 A. Yes.
15 Q. And in the alterations category it is
16 approximately a $60 difference, correct?
17 A. Yes.
18 Q. So that the non-nuclear work in Portsmouth,
19 which is on the east coast, could have been shifted to
20 Philadelphia which was also on the east coast. And the
21 result would have been to increase the workload at
22 Philadelphia, correct, and save money given those

1 significant differences in cost?

2 A. I do not agree that the non-nuclear work could

3 have been shifted to Philadelphia. I'm not an expert on

4 the nuclear workload side of things. However, SEA-08 has

5 definite opinions on where they would like their work on

6 nuclear hulls accomplished. So it would not have been my

7 position at that point to look at this and say we should

8 move work from a nuclear shipyard into a conventional

9 shipyard.

10 Q. So far as you're concerned, no consideration was

11 given to moving the non-nuclear work at Portsmouth to

12 Philadelphia and obtaining the cost savings that would

13 result from that and taking the nuclear work in Portsmouth

14 and moving that to Norfolk and Charleston?

15 A. I can't answer that. I can't say that that was

16 not considered. I do not know.

17 Q. Well, you didn't consider it?

18 A. That's right. I don't second-guess SEA-08.

19 Q. And to your knowledge, no one else, to your

20 knowledge, no one else in the 1991 working group

21 considered that?

22 A. I cannot answer that. I do not know whether

1 A. I have no knowledge of what the BSC
2 deliberations considered.
3 Q. And again, if you look at the last page of
4 MacKinnon No. 19, Bates-numbered 72, you see that there is
5 an approximately $60 difference between cost for fiscal
6 1991 between Portsmouth and Philadelphia, correct?
7 A. Yes. I'm not sure what that rate represents.
8 But, yes, I see that.
9 Q. You also see from the Bates page 72 in MacKinnon
10 No. 19 that there was an approximately $120 difference
11 between Philadelphia and Newport News, which is a private
12 shipyard and an approximately $170 difference between
13 Philadelphia and Electric Boat, which is a private
14 shipyard, for fiscal 1991. Correct?
15 A. Yes. They do completely different types of
16 work. Yes, I see that.
17 Q. Wasn't it suggested as part of the rationale for
18 closing Philadelphia that some of the work at Philadelphia
19 could go to private shipyards, namely Electric Boat and
20 Newport News?
21 A. Part of the considerations were that we have a
22 healthy private sector base on the east coast. We didn't

1 and what would have happened had we moved work anywhere.
2 I'm just saying that, you made the statement that that
3 would have cost the taxpayers a substantial amount of
4 money. And I don't know that that is a fact.
5 Q. Would you look at MacKinnon 16, please.
6 A. Yes.
7 Q. Again, just so the record is clear, that
8 indicates that in 1990, the numerical ranking given
9 Portsmouth was below that of Philadelphia. Correct?
10 A. Yes.
11 Q. And that was only because of the awarding of 50
12 bonus points to nuclear-capable shipyards that Portsmouth
13 leaped ahead of Philadelphia in that numerical ranking.
14 Correct?
15 A. It looks like that, yes.
16 Q. So far as you know, during the 1991 working
17 group meetings, Portsmouth was never considered a
18 candidate for closure or realignment. Correct?
19 A. That is not correct.
20 Q. The working group considered Portsmouth in 1991
21 a candidate for closure or realignment?
22 A. When we started over, we started with the

1 assumption that we would look again at all shipyards.

2 Q. I understand that, but didn't you continue in

3 the 1991 working group meetings the philosophy, if you

4 will, of the 1990 working group meetings that it was

5 essential to keep open all six nuclear-capable shipyards?

6 A. Nothing had indicated that. Yes, that's true.

7 Nothing had indicated that that workload had decreased

8 any. We still needed that requirement, yes.

9 Q. So that, given the conviction that all six

10 nuclear-capable shipyards were necessary because of the

11 projected work, particularly in the years 1998 through

12 2000, the six nuclear-capable shipyards were never

13 candidates for closure or realignment in 1991?

14 A. That's not true. We were using that as part of

15 the data that we had looked at in the first go-around in

16 1990, but when we started over, we started over by saying

17 we are going to go back and ensure that these are still

18 valid data points. Is, in fact, the workload still the

19 same, yes. Is, in fact, the carrier force level going

20 down, yes. Is it going down to nine, no. It's going to

21 12.

22 Those kinds of information were looked at again

1 from the beginning of the 1991 group. A lot of that data
2 was the same, it had not changed -- that we had compiled
3 during the first efforts, but I could not say that there
4 was any at the very beginning of the process that we
5 already knew that we weren't going to look at certain
6 shipyards, because that's not true. We did look again at
7 all shipyards.
8 Q. Well, maybe it's a question of semantics. When
9 in 1991 you again looked at all eight naval shipyards, you
10 reached the same conclusion in '91 that you reached in
11 '90; namely, that because of the projected demand for
12 nuclear work in the year 1998 through the year 2000, that
13 it would be necessary to retain all six nuclear-capable
14 naval shipyards?
15 A. Yes.
16 Q. And, therefore, once that determination was made
17 in 1991, all six nuclear-capable naval shipyards were no
18 longer candidates for closure or realignment. Correct?
19 A. Once that decision was made, yes.
20 Q. And that's why, so far as you know again, and
21 I'm talking about your knowledge and I recognize you may
22 not know everything, but that's why you don't know of any

1 A. Yes.

2 Q. What did you mean by the statement, major cost
3 savings for program execution are not realized by the
4 closure of shipyards, and in particular, the term, program
5 execution?

6 A. What that speaks to is ship maintenance. What
7 it means is that the work, if there is work that has to be
8 transferred, that work has to be paid for somewhere. So
9 you don't save program dollars.

10 I would like to clarify this by saying that I
11 believe that paragraph came from SEA-07F.

12 Q. Who is SEA-07F

13 A. That would be Capt. Kalas, I believe that is who
14 wrote this particular paragraph but I am not sure. All of
15 these efforts concerned a number of people, input was from
16 a number of people.

17 Q. Was it your recollection then that the paragraph
18 under other considerations was provided to you by Capt.
19 Kalas and that in effect you were just the scrivener. It
20 wasn't your opinion?

21 A. In effect, that is true, yes. I believe this
22 paragraph came from Capt. Kalas. I can't say that for

1 certain. It could have been from Capt. Williams, but I
2 put this piece of paper together is all I did on this, and
3 this effort, for the DMR reviews, the Defense Management
4 Reviews, that was my only participation. I had very
5 little participation.
6 Q. So, so far as you can recall, the statement in
7 this paragraph, namely, no proven cost savings can be
8 identified. Historically, major cost savings for program
9 execution are not realized by closure of shipyards. In
10 the 1970's closures of three Naval shipyards demonstrated
11 that little if any apparent cost savings can be
12 accomplished on a program basis. This was documented in
13 the 1980 study, U.S. Shipyard Program Planning, A Basis
14 for Current and Long Range Planning for Facilities and
15 Manpower which reviewed the impacts of the 1970 closures
16 of Naval Shipyards.
17 It is your statement, to the best of your
18 recollection came from either Capt. Kalas or Capt.
19 Williams and probably from Capt. Kalas?
20 A. Yes.
21 Q. Do you have any reason to, any reason or basis
22 to dispute the accuracy of those statements?

1 A. Yes, I do.

2 Q. What is that?

3 A. The analysis that I performed later in the next

4 few months or 2 years, 1990 and 1991, showed that there

5 cost savings to be identified with the closure of a major

6 industrial activity.

7 Q. Was that analysis contained in any document?

8 A. That was determined, yes, of course, that was

9 determining fixed costs, overhead fixed costs that it

10 takes to maintain a facility, things like that.

11 Q. Are you referring to the analyses of what it

12 costs to close a yard and how soon that could be paid back

13 by the savings?

14 A. No. I am referring to analyses, we requested

15 information from NAVSEA on the fixed costs to operate a

16 Naval shipyard. There are also maintenance costs. There

17 are base operating support costs. There is recurring and

18 nonrecurring major maintenance costs. All of those were

19 considered as part of the savings that you would have when

20 you closed an activity.

21 We received input, by the way, from NAVSEA that

22 came from -- that identified those fixed costs that came

1 from some of the shipyards, Philadelphia Naval Shipyard
2 being one of them.
3 Q. Did you have any knowledge in that area about
4 the cost savings that would be attained if a yard were
5 closed, at the time you prepared MacKinnon 24?
6 A. No, I did not.
7 Q. Do you see, and again, in MacKinnon 24 on the
8 first page next to the title description is the statement,
9 close two Naval shipyards as proposed in DMRD 909, do you
10 see that?
11 A. Yes.
12 Q. What was DMRD 909?
13 A. The review that was going on at the OSD level
14 that I spoke of is called the Defense Management Review.
15 The D at the end of that, Defense Management Review
16 Decision, that was a paper that the Office of the
17 Secretary of Defense put out by number, they had a number
18 of them, you can see this was 909. This was the one I
19 spoke to, that talked to consolidations and closure of two
20 Naval shipyards.
21 Q. And this was something separate and apart from
22 the SECDEF "17" list, correct?

1 A. Yes, this was before that. This was with
2 maintaining the current force structure.
3 Q. And did the proposal in DMRD 909 recommend which
4 Naval shipyards should be the ones closed?
5 A. I don't know. I don't think so.
6 Q. Would you turn to the second page of MacKinnon
7 24 please, under the title, estimated net savings, is the
8 statement, DMRD 909 estimates savings at $274 million,
9 fiscal year '92 through '95. These savings appear
10 unsubstantiated and reflect invalid assumptions.
11 Do you see that?
12 A. Yes.
13 Q. Now you wrote that, correct?
14 A. I typed it.
15 Q. Yes. Now is this another case where you simply
16 were incorporating someone else opinion as opposed to
17 expressing this opinion yourself?
18 A. Yes.
19 Q. Whose opinion was that?
20 A. This was probably again, either Capt. Kalas or
21 Capt. Williams' statements. My guess on this one is it
22 was Capt. Williams because he was the one who was involved

1 with the DMRDs.

2 Can I add something here?

3 Q. Certainly.

4 A. What this speaks to, again, your question on the

5 program savings, this ship work would only be transferred

6 from one shipyard to another, it is difficult to estimate

7 savings because of that, because the money that is spent

8 to do that maintenance is spent at one shipyard or

9 another, it doesn't matter. It is still a cost to the

10 Navy to perform that maintenance.

11 The paragraph about that that speaks the CV

12 SLEPs going away, that is, again, a different situation

13 because when the workload goes away then you don't have to

14 worry about transferring something to another shipyard.

15 So in fact, that is when the fixed costs can be considered

16 that it takes to run that shipyard.

17 Q. Of course, if you transferred the non-nuclear

18 work at Portsmouth to Philadelphia, then Philadelphia

19 would have more work, correct?

20 A. And Portsmouth would have less.

21 Q. Right.

22 A. But someone made the decision, for whatever

1 Q. So Philadelphia would have had 19 more points
2 than Portsmouth if Portsmouth was not given 25 bonus
3 points for being a nuclear-capable shipyard, correct?
4 A. I think that is out of context. If you change
5 any one of these scores up through here, you could do the
6 same kind of thing or you could do the opposite. For
7 example Philadelphia scored higher in work force skills
8 available in the local area. If those were reversed, you
9 would have a different situation.
10 I can't say that that particular 25 points are
11 the particular 25 points that put them over.
12 Q. Well, if you subtracted the 25 points that
13 Portsmouth received for being a nuclear-capable shipyard,
14 Portsmouth would have ended up being eighth in the
15 rankings, correct?
16 A. That is true.
17 Q. All right. And if you subtracted the 25 points
18 that Mare Island received for being a nuclear-capable
19 shipyard, Mare Island would have ended up having only one
20 total point more than Philadelphia, correct?
21 A. Yes.
22 Q. All right.

1 Q. And you believed that that was distorted?

2 A. Yes.

3 Q. Did anyone else share your belief?

4 A. Yes.

5 Q. Who else?

6 A. NAVSEA, particularly and other people in OP-43,

7 Captain Williams, Admiral Lang.

8 Q. Who at NAVSEA shared that belief?

9 A. Captain Kalas is the financial officer in

10 SEA-07. He was very adamant about how distorted the COBRA

11 model was. And I believe other people In SEA-07, in

12 NAVSEA.

13 Q. Was the BSC briefed on how distorted the COBRA

14 model was?

15 A. I don't recall the conversations of the BSC

16 briefing exactly. But I believe that there was some

17 mention of how we did not concur, or at least NAVSEA did

18 not concur. I'm not sure who might have said it, possibly

19 Mr. Ryzewic, that the COBRA model didn't necessarily

20 reflect what we thought it should.

21 Q. You were present at the BSC briefing, correct?

22 A. Yes.

1 Q. Well, --

2 A. I believe I was. This is 25 March and I was at

3 -- the only ones I actually remember the dates on that I

4 attended was the 12th and 14th of February. I did attend

5 a couple of others, one or two others, and probably this

6 was one of them.

7 Q. I thought it was your testimony that OP-43,

8 namely you, OP-44, and NAVSEA-07 all thought the COBRA

9 model was distorted.

10 A. I don't know if OP-44 believed that. I don't

11 know.

12 Q. Well, you believed it.

13 A. Yes.

14 Q. And NAVSEA-07 believed it.

15 A. Yes.

16 Q. Well, then when you went to the BSC meeting

17 didn't OP-43 and NAVSEA-07 tell them that the believed the

18 COBRA model was distorted?

19 A. If I was the only one there from OP-43 I didn't

20 tell them anything because I was sitting in the peanut

21 gallery. I don't recall whether anyone else was there

22 from OP-43. I don't recall how it was discussed, if it

1 was, at that meeting.

2 Q. Was Captain Williams at the meeting?

3 A. I don't know for sure.

4 Q. Did the BSC say it would disregard the COBRA

5 model in light of the fact that it was distorted?

6 A. No. I never heard that.

7 Q. Did you ever determine or learn what the BSC's

8 reaction was to the information provided that it was a

9 distorted model?

10 A. I don't think so. I wasn't one of the major

11 players in the COBRA, you know running the COBRA. That

12 was through OP-44 and they had a lot of direct

13 communication with NAVSEA-07F, and that's Captain Kalas.

14 And I can't tell you the specifics, for example, of how

15 they felt it was distorted other than the fact that they

16 thought it didn't reflect the uniqueness of the NIF

17 activity.

18 Q. Isn't it a fact that Captain Williams believed

19 that the economic analysis conducted using COBRA would

20 probably not withstand an outside audit?

21 MR. BATTEN: Objection. She can't testify to

22 what he knows.

OFFICIAL TRANSCRIPT
BEFORE THE

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SENATOR ARLEN SPECTER, et al.,

Plaintiffs,

v.

H. LAWRENCE GARRETT, III, et al.,

Defendants.

CIVIL ACTION NO.

91-CV-4322

Hon. Ronald J. Buckwalter

Washington, D.C.
Tuesday, September 24, 1991

Deposition of ROBERT LAWRENCE MEYER

ALDERSON REPORTING COMPANY, INC.
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(202) 289-2260

1 A. The conclusion was that they did.
2 Q. Did you come to any conclusion that the Air
3 Force had an internal control plan in compliance with
4 the Department of Defense directive?
5 A. Yes, we did.
6 Q. What was the conclusion?
7 A. It was the same, that theirs was adequate.
8 Q. Now, describe, if you can, the Navy process
9 for evaluating its bases pursuant to the 1990 Base
10 Closure Act.
11 A. The Navy process, as it evolved to our
12 visibility, I guess is a good way to put it --
13 Q. Why do you say to your visibility?
14 A. Well, as I said, the Navy said that the names
15 of the bases and the specific bases to be eventually
16 selected and announced by the Secretary, that the
17 process of getting at those specific bases was so
18 intertwined with the process, they could not separate
19 the specific bases from the process. The bases were the
20 process.
21 Q. Didn't that seem kind of fishy to you?
22 A. Well, it is unusual. It is different. But,

1 again, each one of the services had the ability to
2 develop their own process and within the overall
3 guidelines, there wasn't anything that we could at that
4 point really grasp on to say that you can't do this. I
5 mean, it was within the overall guidance. They were
6 allowed to come up with their listing and provide us
7 with all of the information on how they did that,
8 including the process. Their position was that the
9 process was evolving. They were, in fact, way behind
10 the power curve in terms of developing the process and
11 therefore they had very little that they could share
12 with us because they were in the process of developing
13 the process, if that makes any sense.
14 Q. Well, in other words, they said to you they
15 were in the process of developing the process and,
16 therefore, it was not appropriate for you to be involved
17 at that time?
18 A. Well, they were saying that they didn't have
19 any documentation to share with us because they were
20 just developing the process at that point.
21 Q. They said they didn't have any documentation
22 to share with you, other than the procedures memo of

1 January 28th, 1991?

2 A. The procedures memo and they indicated to us

3 that all of the decisional information would come out of

4 the shore facilities database. And they gave us access

5 to the shore facilities database. The shore facilities

6 database is a gigantic computer database which keeps

7 basic square footage information and age of building

8 information and a whole lot of other information of that

9 type on all of the shore facilities in the Navy.

10 For example, you can go into that database and

11 you can go and you can find out how many buildings there

12 are at the naval base in Norfolk and how big they are

13 and how old they are and how many square feet they have

14 and how many windows they have and just virtually

15 anything you would ever want to know about that.

16 Q. But did they tell you how they were using this

17 shore facilities database, if at all in their base

18 evaluation process?

19 A. That was part of the process that was being

20 developed.

21 Q. So they didn't, in other words?

22 A. No. They did not identify any specific data

1 elements, for example, that would be used out of the
2 shore facilities database.
3 Q. They just said here it is, look at it until
4 your heart's content?
5 A. Here it is, that's the principal source of all
6 the information we are going to use in our process and
7 we are developing our process right now, so you really
8 ought to get familiar with that.
9 Q. Well, did the Navy tell you, and I am now
10 talking about the January-February 1991 time frame, that
11 there was a study called the OPNAV study or the VCNO
12 study?
13 A. Sure.
14 Q. Which had commenced in early 1990 and been
15 concluded in late 1990?
16 A. Yes, we were aware of the VCNO study from its
17 inception.
18 Q. Did they provide you with a copy of that?
19 A. They provided us with a lot of it, yes. I
20 don't know that we ever got a complete copy of the study
21 per se. I don't know if the study was ever even
22 completed.

1 There was a lot of information that was
2 gathered because of that study. And we received a good
3 portion of that information, yes.
4 Q. And you received that in January 1991?
5 A. We received that early, yes, probably January,
6 February.
7 Q. Is there any other -- we have talked about the
8 shore facilities database, the procedures memo, the
9 OPNAV study. Is there anything else that the Navy
10 provided to the GAO in January 1991 to your
11 recollection?
12 A. I don't remember the time frames. At the time
13 we were attempting to get additional information from
14 the Navy on which to base an evaluation, similar to what
15 we were doing with the Army and the Air Force. So there
16 was a series of meetings all through February, March,
17 that time frame, where we discussed our desires for
18 documentation and various things were provided to us as
19 a result of those meetings, somewhat piecemeal and in
20 some cases we didn't accept them.
21 For example, we indicated that we needed much
22 more additional documentation than had been provided.

1 I believe it was the 7th. You gave me the date. I
2 don't remember the date.
3 Q. There was a May 7th meeting, that's true.
4 A. Well that's the one.
5 Q. Do you remember who was present at that
6 meeting on May 7th? I assume you were, of course.
7 A. Yes. Donna Heivilin, myself, Ray Cooksey,
8 Dave Schmitt and Bob Self from GAO. From the Navy it
9 was all the principals of the Base Structure Committee,
10 Assistant Secretary Schafer, Charlie NemFakos, Admiral
11 Loftis, and all the rest of them. I don't remember
12 offhand, Admiral Oliver, all the principals of the Base
13 Structure Committee.
14 Q. Fine. This may be an inappropriate word but
15 obviously I want you to provide the testimony. I wasn't
16 there. But was the Navy at all contrite that it didn't
17 have the documentation that you were asking for or did
18 they simply say: We did what we did and you have to
19 live with it? What was the reaction?
20 A. I don't know that they were contrite. I don't
21 know that that's the right word either.
22 Q. That's why I am asking.

1 A. The Navy basically said: This is the process
2 that we used. This is what we have done. Now, we will
3 provide whatever we have to provide. If what we did was
4 inadequate for you to make a judgment on how we went
5 about our process, we will certainly be very happy to
6 provide whatever you need.
7 And at that point they began this verbal
8 description of the process. Well, you see this and you
9 see that and these are the documents we used and they
10 basically tried to recreate the process in an interview
11 format for us at the Base Structure Committee hearing
12 room.
13 And we refused to accept that. Basically we
14 said: We are not in the process or the job of creating
15 your documentation for you. That's going to put us in a
16 position of being the middleman between the Navy and the
17 Base Closure Commission. We don't want to create your
18 documentation for you.
19 The process that you are describing should be
20 documented and provided to the Base Closure Commission.
21 That was the way we left it. That, in fact, is the
22 recommendation we finally made in the report.

1 demonstrating that they had an internal control plan?
2 A. They had not.
3 Q. Now, again, you have described, and I realize
4 to a certain extent I am covering the same territory,
5 but I am trying to get the record as complete as
6 possible on these points.
7 A. Sure.
8 Q. During this period from January 1991 through
9 May 7, 1991, the Navy from time to time would say to
10 you: Here are some documents, and you have described
11 the boxes of documents episode that you and Mr. Cooksey
12 were involved in.
13 Was that episode of the boxes of documents
14 that you described in your testimony, was that typical
15 of what happened when the Navy would give you
16 documents? What I mean by that, so it is clear on the
17 record, when they gave you documents, they were not
18 organized and they were not related to the process, the
19 base evaluation process that they were involved in?
20 A. I don't want to say that across the board. I
21 mean, some of the documents that were provided to us
22 certainly laid out portions of a process. The problem

1 was we could never get, see how they all fit together
2 into an overall process.
3 For example, I mentioned that some of these
4 things in the attachment here, that I had seen but that
5 I don't remember them being attached, an attachment to
6 Attachment A. A lot of that stuff came out of the VCNO
7 study and the VCNO study had a methodology, if you will,
8 for ranking bases.
9 And we had gotten portions of that at various
10 times. So to the extent that the VCNO study information
11 was usable in terms of an overall process, then we had
12 gotten things that ended up being part of the overall
13 process. The problem is we didn't know what would be
14 used and what wouldn't be used, so we didn't feel
15 comfortable in how any of that documentation would fit
16 into the final process.
17 Q. Well, in fact, isn't it a fact that the Navy
18 never told you, at least through May 7, 1991, how the
19 VCNO or OPNAV study related to their base evaluation
20 process?
21 A. The first -- I am trying to think of whether
22 we were told that prior -- we were definitely told that

1 A. Yes, I did. And the reason for that was more
2 of a timing problem than anything else.
3 Given the volume of documentation that was
4 being produced by the Air Force and the Army, and given
5 the fact that even if the Navy did provide us with
6 documentation, I was afraid that we would get it too
7 late, is what I was afraid of.
8 Q. And, in fact, your fear turned out to be
9 correct because you did not have it as of May 7, 1991,
10 correct?
11 A. That's correct.
12 Q. And so you could not validate the Navy's base
13 evaluation process as of May 7, 1991, correct?
14 A. Not in time to get it into a report by the
15 14th or 15th, no.
16 Q. Now, you then state that "The following data
17 is the minimum we believe we need immediately to be able
18 to perform our legislative mandate." Do you see that?
19 A. Yes.
20 Q. And the first category of data is functional
21 categories and the Navy activities placed in each
22 category. Do you see that?

1 A. Yes.

2 Q. Now, on or prior to the issuance of the GAO

3 report in mid-May of 1991, did you receive that date

4 from the Navy?

5 A. Yes, we did.

6 Q. When did you receive it?

7 A. The day after Secretary Cheney announced the

8 base closure candidates. I believe that was April 16,

9 17, somewhere in that time frame.

10 Q. And what did the Navy give you on or about

11 April 16, 1991 in this category of documents?

12 A. The Navy gave us several volumes of

13 documentation, which gave the bases that were -- it gave

14 the functional categories of naval bases, naval air

15 stations, et cetera. It gave the names of the bases

16 that were included in each one of those categories. It

17 gave information about the base that was selected for

18 closure and it gave some traffic-wide coding for each

19 one of those, for the bases in the category and gave

20 detailed information on the base that was closed,

21 selected for closure.

22 Q. Did it give you detailed information on the

1 bases that were not selected for closure?

2 A. No, it did not.

3 Q. Well then how could you go about validating

4 the process by which the Navy selected bases for closure

5 if you didn't have the detail on the bases that were not

6 selected for closure?

7 A. You couldn't. You could not.

8 Q. Let me show you a document previously marked

9 as Yellin 1. And I ask you if you have ever seen this

10 document prior to today.

11 A. No, I have not.

12 Q. You have never seen this document prior to

13 today?

14 A. No.

15 Q. You note this is a BSC rating work sheet for

16 the shipyards.

17 A. Yes.

18 Q. Did you see -- prior to today, have you ever

19 seen any document which purported to set forth color

20 coding for each of the eight naval shipyards for each of

21 the criteria promulgated pursuant to the 1990 Base

22 Closure Act?

1 A. Yes, that was included in the documentation
2 that was provided to us on the 16th of April.
3 Q. And did it have color coding by criteria for
4 each of the eight naval shipyards?
5 A. I would have to refresh my memory. I believe
6 it did, yes.
7 Q. Well, in what form was the document, if you
8 can recall, that you received on or about April 16 as
9 contrasted to Yellin 1, which I have presented to you?
10 A. It was similar to this, one of the
11 attachments.
12 Q. I think it is toward the end of 1-B. Is it
13 the last two pages of 1-B?
14 A. It is similar to that, yes. This one happens
15 to be for something other than shipyards, I believe.
16 Q. I understand that.
17 A. But it is the same format. It gives the major
18 factors that were evaluated and then had the names of
19 the shipyards, along with color coding.
20 Q. So the form of the document which you received
21 on or about April 16, 1990 from the Navy showing the
22 color coding of the Navy bases was as represented at

1 at that point on was the overall rankings.

2 Q. Right. So you would have had no way of

3 validating whether the overall ranking corresponded to

4 the evaluations given in the underlying criteria?

5 A. That's correct.

6 Q. Did you know when you got the overall rankings

7 for the naval shipyards that seven of the eight naval

8 shipyards had been excluded under what the Navy BSC

9 called its Step 5 procedure?

10 A. We were aware of that at some point. I am not

11 sure at this point when we were aware of that. That

12 Step 5 procedure was the nuclear shipyard rankings and

13 we were aware of that. Now, when we became aware of

14 that, I am not sure.

15 Q. It could not have been earlier than April 16?

16 A. No, certainly not.

17 Q. It would have been sometime between April 16

18 and May 7?

19 A. Yes, that's fair.

20 Q. All right. Now, can we return to your letter,

21 please? The second request for information in the March

22 11 letter is the major factors and evaluation components

1 to be used in evaluating activities and the definitions
2 of each.
3 Did you ever receive that information prior to
4 the issuance of the GAO report in mid-May of 1991?
5 A. Yes, we received that along with all the other
6 documentation that was provided by the Navy on April
7 16th.
8 Q. So you also received that on April 16th?
9 A. Yes, yes, we received that on April 16th.
10 Q. Did you receive category 3, the capacity
11 analysis and category 4, the data collected on each base
12 in each functional category where excess capacity was
13 identified also on April 16, 1991?
14 A. We received some information that purported to
15 provide that.
16 Q. Categories 3 and 4?
17 A. Yes. It was incomplete and that was part of
18 the basis for our problem in evaluating it.
19 Q. So the information for categories 3 and 4,
20 which is the capacity analysis, i.e., the data used to
21 determine requirements and the data used to determine
22 existing capacity within the functional categories, and

1 incorrect decision.

2 Q. Do you see the fourth paragraph, numbered

3 paragraph on page 3, Mr. Schmitt writes, "These

4 officials explained that their decision process

5 consisted of multiple briefings/meetings between the BSC

6 and representatives from the resources sponsors, major

7 claimants, type commands and facilities engineers. They

8 stated that time constraints and the volume of these

9 meetings did not permit them to write detailed minutes

10 of these meetings or to document every decision."

11 Do you see that?

12 A. Yes.

13 Q. Did the Navy members of the BSC make those

14 statements at the meeting on May 7?

15 A. Yes, they did. What they were alluding to, I

16 believe, is the fact that the structure of the Navy in

17 terms of the decision-making process is a little bit

18 more complicated, I guess, than the Air Force and the

19 Army. You don't have a direct link. And they had, in

20 fact, many, many people representing many, many opinions

21 about each one of these particular candidates. And they

22 had, to my recollection, they had a large number of, if

1 you will, witnesses coming in and each presenting their
2 own views on a whole lot of things in a very short
3 period of time.
4 So they said basically because of the nature
5 of the proceedings, that they just did not keep the
6 notes or they did not make any record or whatever.
7 Q. Does that explain why there were no notes or
8 minutes of the meetings, the fact that there were many
9 people there?
10 A. Well, they made the determination not to do
11 it. Now, why, I can't say.
12 Q. All right. But there was no reason, no
13 satisfactory reason so far as you were concerned why
14 they couldn't have kept some record or minutes of those
15 meetings, correct?
16 A. Exactly, yes, sir.
17 Q. And, in fact, when they said they didn't write
18 detailed minutes, they didn't write any minutes,
19 correct?
20 A. That's correct. Or if they did, we never saw
21 them. They said they did not have any. I have no
22 reason not to believe them.

1 Q. Now, again, according to Mr. Schmitt, "they,"
2 referring to the Navy, "They added that in some cases
3 the final decisions regarding closure candidates within
4 a given category were made during these group meetings
5 and in other cases the decisions were made by the BSC
6 after multiple follow-up meetings and additional
7 input."
8 Do you see that?
9 A. Yes. What that alluded to was the fact that
10 some of the -- the way it was described to us as if
11 these rather intense, rather chaotic meetings where
12 there were a great many people coming in and voicing
13 their opinions, as a result of these discussions and
14 charts and documentation, presentations and viewgraphs
15 and whatever else, it was sort of a consensus among
16 those at the BSC meeting as to what the outcome should
17 be and would be and it was fairly obvious, I guess was
18 the way they characterized it.
19 In other cases, it wasn't fairly obvious, and
20 in those cases it was -- there was further review in
21 sessions, as they were described to us, were called
22 sessions where they did not have all of these people in

1 here. When I say all of these people, as I say, we are
2 talking about the resource sponsors and major claimants
3 and the type commands and everybody under the sun. Some
4 of the meetings, the decisions were made with all these
5 people there. Some of the meetings, apparently, the
6 decisions were made with the members of the Base
7 Structure Committee there, without all these other
8 additional people. That's the only thing. That's what
9 he meant by this.
10 Q. But because you had no documentation of what
11 occurred at these meetings, you didn't know which
12 decisions were made with all the people there and which
13 decisions were made with none of them there?
14 A. Exactly.
15 Q. And which decisions were made with some of
16 them there, correct?
17 A. Exactly.
18 Q. And also because of the lack of documentation
19 at these meetings or what took place at these meetings,
20 you didn't know what the basis for the decisions was at
21 the meetings?
22 A. Exactly.

1 that discussed that. And in response to that, each one
2 of the services would have issued policy guidance, which
3 the Navy did. They mentioned that we will have an
4 internal control plan, but you have to do a little bit
5 more than that to have an active internal control plan
6 in place.
7 And, in fact, as we discussed earlier, the Air
8 Force put an auditor over there to assure that the data
9 was correct and we independently validated that. And in
10 the case of the Army, the Army Audit Agency
11 independently validated and there was an ongoing plan to
12 assure that the data that was provided to the decision
13 makers was, in fact, accurate.
14 We had no assurance that the Navy had similar
15 controls in place. They may or may not have. We have
16 no idea.
17 Q. Then in the next sentence, the GAO states,
18 "Due to the limited documentation of its process, we
19 also could not assess the reasonableness of the Navy's
20 recommendations for closures." Do you see that?
21 A. Yes.
22 Q. Was it the conclusion, in fact, of the GAO

1 that as of May 15, 1991 that because of the limited
2 documentation of the Navy's process, the GAO could not
3 assess the reasonableness of the Navy's recommendations
4 for base closures?
5 A. Well, given any lack of documentation in any
6 way of validating the selections that came out of the
7 process, certainly, yes. That isn't to say that they
8 were good or bad. It is just that we had no way of
9 validating it.
10 Q. You had no way of concluding whether they were
11 right or wrong, correct or incorrect, reasonable or
12 unreasonable?
13 A. Exactly.
14 Q. So you couldn't perform your function of
15 reviewing the process as it occurred and reporting to
16 the Commission by May 15 with respect to the Navy,
17 correct?
18 A. In terms of concluding as to the adequacy of
19 the process of the Navy, that's correct.
20 Q. Well, it is not just the process. It is also
21 the decisions. You could not report to the Base Closure
22 Commission as to the correctness or the reasonableness

1 of the base closure recommendations made by the Navy
2 because of a lack of documentation, correct?
3 A. That was not part of the legislative mandate,
4 I don't believe.
5 Q. Well, all right. Leave aside whether it is
6 part of the mandate or not part of the mandate, you did
7 not have sufficient documentation and information from
8 the Navy by May 15, 1991, to assess the correctness or
9 reasonableness of the Navy BSC's base closure
10 recommendations?
11 A. That's correct.
12 Q. Fine. Well, when I asked you to describe the
13 GAO roles, you said the second role was to provide
14 assistance to the Commission as requested.
15 A. Right.
16 Q. Did the Base Closure Commission ever request
17 the GAO to assess or evaluate the base closure
18 recommendations made by each of the armed services?
19 A. As an agency, no. The way that that was
20 interpreted and the way we performed that function, if
21 you will, the GAO role as an agency, which was to
22 produce that report by the 15th, to both advise the

OFFICIAL TRANSCRIPT
BEFORE THE

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SENATOR ARLEN SPECTER, et al.,

Plaintiffs,

v.

H. LAWRENCE GARRETT, III, et al.,

Defendants.

CIVIL ACTION NO.

91-CV-4322

Hon. Ronald J. Buckwalter

Washington, D.C.
Friday, September 13, 1991

Deposition of CHARLES P. NEMFAKOS

ALDERSON REPORTING COMPANY, INC.
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1 analyst at OSD?

2 A. Two years.

3 Q. And what position did you assume at that time?

4 A. Division Director in the Office of the

5 Comptroller of the Navy. That's August of 1975.

6 Q. That is when you assumed that position?

7 A. Yes.

8 Q. Is the office of the Comptroller of the Navy

9 known as the OCN or does it have some other designation?

10 A. NAVCOM.

11 Q. And for how long did you hold your position as

12 Division Director of NAVCOM?

13 A. A year.

14 Q. And what position did you assume at that time?

15 A. Associate Director, Office of Budget and

16 Reports.

17 Q. With NAVCOM?

18 A. Yes.

19 Q. And is that the position you hold today?

20 A. Yes.

21 Q. So you have been holding that position since

22 1976?

1 Q. Did they have any reporting responsibility to
2 you?
3 A. No.
4 Q. Does any division within OP 04, like OP 431,
5 have any reporting responsibility to you?
6 A. No.
7 Q. Do any of the OP groups have any reporting
8 responsibility to you?
9 A. No.
10 Q. Have you heard of the term "BSC" prior to today?
11 A. Base Structure Committee? Yes.
12 Q. Were you a member of the Base Structure
13 Committee?
14 A. Yes.
15 Q. And who appointed you?
16 A. The Secretary of the Navy.
17 Q. When did you first get appointed to the Base
18 Structure Committee?
19 A. Whenever the letters went out, and I would be
20 happy to provide that date to you.
21 Q. Earlier this year?
22 A. Yes.

1 I should say, was assigned the function of insuring that
2 all military installations inside the United States as
3 defined in the Act were considered on an equal footing,
4 without regard to whether the installation had been
5 previously considered or proposed for closure or
6 realignment by the Department of Defense?
7 MR. BATTEN: Objection, but you may answer the
8 question.
9 THE WITNESS: I believe that was a collective
10 responsibility, sir.
11 BY MR. PITTINSKY:
12 Q. So that you and the other members of the BSC
13 each had a responsibility to insure compliance with that
14 requirement?
15 A. I would believe so.
16 Q. What did you do then, personally, to insure that
17 military installations inside the United States as defined
18 in the Act were considered on an equal footing, without
19 regard to whether the installation had been previously
20 considered or proposed for closure or realignment by the
21 Department of Defense?
22 A. What I did as I would believe the rest of the

1 members of the committee did, is, as we received both data
2 and presentations, we attempted to insure that they were
3 as complete as possible with regard to coverage.
4 Q. What did you do to insure that all of the
5 installations were considered on an equal footing without
6 regard to whether the installation had been previously
7 considered or proposed for closure or realignment by the
8 Department of Defense?
9 MR. BATTEN: Asked and answered.
10 MR. PITTINSKY: It's not answered.
11 MR. BATTEN: You can answer the question again.
12 THE WITNESS: We looked at the data that was
13 presented to us, we examined the presentation material
14 that was presented to us, and tried to make sure that it
15 was as complete as possible with regard to its coverage.
16 BY MR. PITTINSKY:
17 Q. Well, did the OPNAV study or the VCNO study
18 propose that the Philadelphia Naval Shipyard be closed?
19 MR. BATTEN: The document will speak for itself.
20 MR. PITTINSKY: He can answer.
21 THE WITNESS: I can't recall all the specifics
22 of what are in that document. If it does, it does.

1 Q. Well, do you know whether or not the VCNO study
2 addresses that subject?
3 MR. BATTEN: Asked and answered. You can answer
4 it again.
5 THE WITNESS: No, I don't know.
6 BY MR. PITTINSKY:
7 Q. Now, under Policy Guidance, the second
8 requirement is that the recommendations in the studies
9 must be based on the final base closure and realignment
10 selection criteria established under that Section. Do you
11 see that?
12 A. Yes.
13 Q. Was that also a collective obligation of the
14 Base Structure Committee?
15 A. I believe it was. Yes, sir.
16 Q. What did you personally do to insure that the
17 recommendations in the studies would be based on the final
18 base closure and realignment selection criteria
19 established under the act?
20 A. To the best of my ability, I attempted to
21 assure, as we discussed these matters, and as we
22 formulated the recommendations, that they complied with

1 the guidance that we had.

2 Q. What do you mean by the guidance that you had?

3 A. That the recommendations in the studies must be

4 based on the final base closure and realignment selection

5 criteria established that Section.

6 Q. Do you recall any of the final base closure and

7 realignment selection criteria, which included the --

8 strike that. Would the reporter please mark as Nemfakos

9 #2 for identification?

10 A. Do you want this back?

11 MR. PITTINSKY: You should hold it in front of

12 you. The directive of the Department of Defense dated

13 February 13, 1991.

14 (The document referred to was

15 marked Nemfakos Exhibit No. 2

16 for identification.)

17 BY MR. PITTINSKY:

18 Q. In connection with your service as a member of

19 the Base Structure Committee, did you have an opportunity

20 to review Nemfakos 2?

21 A. I believe so, yes.

22 Q. And would it have been in February of 1991?

1 A. Did I?

2 Q. Yes.

3 A. No.

4 Q. To your knowledge did anyone on the Base

5 Structure Committee establish an internal control plan to

6 accomplish and implement those items?

7 A. I believe that the Committee as a whole did, and

8 there should be some record available of the guidelines

9 used by the committee in proceeding.

10 Q. Well, do you know of any system for verifying

11 accuracy of data used by the committee?

12 A. Other than questioning the data, asking for

13 additional information, having owners of the activities

14 come in and make detailed presentations, no.

15 A. Well, sir, you're in the office of budget and

16 reports, correct?

17 Q. Yes, sir, I am.

18 A. Do you regard what you just described as a

19 system for verifying the accuracy of data?

20 A. Certainly.

21 Q. Do you believe that is a system?

22 MR. BATTEN: Objection.

1 BY MR. PITTINSKY:

2 Q. Is that your testimony?

3 A. I believe that is the system.

4 Q. Simply questioning and receiving answers from

5 individuals?

6 MR. BATTEN: Asked and answered.

7 THE WITNESS: Yes.

8 BY MR. PITTINSKY:

9 Q. And that's all you did, correct, to comply with

10 that requirement?

11 MR. BATTEN: The committee, or him personally?

12 MR. PITTINSKY: The committee.

13 THE WITNESS: Yes.

14 BY MR. PITTINSKY:

15 Q. Did the commission establish procedures to check

16 the accuracy of the analyses made from the data provided?

17 MR. BATTEN: You said the commission. I assume

18 you mean the committee.

19 MR. PITTINSKY: I do.

20 BY MR. PITTINSKY:

21 Q. Did the committee establish procedures to check

22 the accuracy of the analyses made from the data provided?

1 A. The procedures were as I have described them,
2 which is taking all of the data, going through the data
3 asking questions both of ourselves, the people who were
4 there to explain the data, and so in that context it was a
5 series of analyses conducted by the committee as a whole,
6 with material we had been provided, and attempting to
7 ascertain its accuracy and to the extent that we felt that
8 we had questions with regard to the accuracy, having
9 components come in and make more detailed presentations,
10 and then asking them questions on those, and then having
11 them come back again.
12 Q. What you have just described is a subjective
13 process, isn't it?
14 A. I don't know that I would describe it as a
15 subjective process. I would describe it as a questioning
16 process, and attempting to achieve fairness and equal
17 treatment of all the data presented.
18 Q. Well, isn't it a fact that you yourself
19 personally described that as a subjective process in a
20 session or meeting between the Navy Base Structure
21 Committee and the Courter Commission held on Monday, May
22 20, 1991?

1 Q. And so there is no record as such -- written
2 record of the question and answer sessions that you
3 described.
4 MR. BATTEN: Objection. You may answer.
5 THE WITNESS: Right.
6 BY MR. PITTINSKY:
7 Q. Do you know of any documentation justifying any
8 changes made to data submissions?
9 A. The documentation would be that documentation
10 that was accumulated which is a series of presentations
11 and other responses to direct questions that submitting
12 Commands had to make when we were unable to understand
13 clearly the basis of the initial data provided to us. And
14 I believe that documentation is part of the record and has
15 been provided to the various people looking at it.
16 Q. Well, did you as a member of the committee
17 conclude that the documentation you received from the
18 persons making these presentations justified changes made
19 to prior data submissions?
20 A. It certainly -- when you say changes made to
21 prior data submissions, we didn't go and change prior data
22 submissions. What we did is we amplified the data

1 presented in prior data submissions and I believe that the
2 various components of the Department of the Navy responded
3 very well in providing us the additional information that
4 we needed.
5 Q. Well, what I asked you is whether you regarded
6 the submissions as justifying changes made to prior data
7 submissions.
8 A. And what I was trying to say to you was that we
9 didn't go back and change submissions. The records is
10 established as getting a submission, asking questions,
11 getting additional data which amplified the original
12 submission.
13 Q. Well, isn't it a fact, sir, that the original
14 data submissions that you received attached numerical
15 values to various military criteria that were established
16 by the 1991 Base Closure Act? And that those numerical
17 values were used, for example, in evaluating the eight
18 naval shipyards?
19 MR. BATTEN: That's a compound question, but you
20 can answer both parts.
21 THE WITNESS: Do I do a compound answer?
22 BY MR. PITTINSKY:

1 Q. Whichever you prefer.

2 A. I am aware there were values that were used in

3 the VCNO study that we used to arrive at our final

4 recommendations.

5 Q. And the VCNO study attached actual numerical

6 values to the military criteria established by the 1991

7 Base Closure Act in evaluating the eight naval shipyards,

8 correct?

9 A. They attached values, yes.

10 Q. Now in the final deliberations of the Base

11 Structure Committee, those numerical values were not

12 utilized, correct?

13 A. We did not utilize numerical values across the

14 board in the Department of the Navy in arriving at our

15 final recommendations.

16 Q. And in fact you did not use numerical values in

17 evaluating the eight naval shipyards.

18 A. We did not use numerical values across the board

19 in evaluating activities of the Department of the Navy.

20 Q. So, my question is what documentation justified

21 disregarding the numerical values in reaching the final

22 conclusions of the Base Structure Committee?

1 MR. BATTEN: Objection. He didn't testify, the
2 committee disregarded the information.
3 BY MR. PITTINSKY:
4 Q. You didn't use numerical values, correct?
5 A. We did not use numerical values. We did not
6 ignore the input. As I told you, we maintained the entire
7 body of data submitted to us and all of that data was used
8 to arrive at the recommendations.
9 Q. Yes, but the recommendations did not include
10 quantifying the -- or evaluating the shipyards based upon
11 numerical values, correct?
12 A. We received data of a variety of natures with
13 regards to the shipyards and the other Department of the
14 Navy activities, both the quantifiable and otherwise, and
15 all of it was utilized.
16 Q. You are saying that you actually relied on the
17 numerical values given to you by the VCNO study for the
18 eight naval shipyards?
19 A. I am saying that it was considered, I did not
20 say that it was relied on.
21 Q. Well, was it relied on?
22 A. It was considered.

1 Q. Was it relied on?

2 A. It was considered.

3 Q. What's the difference, in your mind, between

4 relied on and considering?

5 A. There's a very big difference.

6 Q. Well, tell me.

7 A. When you say you rely on something, in my mind

8 it says that you blindly accept it and use it. When you

9 say you consider something, you take it and a lot of other

10 data and you arrive at a conclusion and a recommendation.

11 Q. And did you think that those numerical values

12 were useful for the eight naval shipyards?

13 A. As a starting point, certainly.

14 Q. How about as an ending point?

15 A. No. I don't believe that they were an ending

16 point.

17 MR. PITTINSKY: Would the reporter please mark

18 as Nemfakos 3 for identification the document dated May

19 24, 1991, entitled GAO Findings/Recommendations and

20 Response?

21 (The document referred to was

22 marked Nemfakos Exhibit No. 3

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1 no internal control plan, you said yes, and you said that
2 you disagreed with that.
3 A. I know I did.
4 Q. So now if you see here is the response, on page
5 2, halfway down, again, the page, "A specific written base
6 closure internal control plan was considered unnecessary
7 because of the nature of the database being utilized and
8 the formal existing written instructions and internal
9 controls on that database. It was determined that an
10 additional control plan was not required." Do you see
11 that, sir?
12 A. Yes, sir.
13 Q. Do you agree with that statement?
14 A. To the extent that I understand it, yes, I agree
15 with it.
16 Q. Well, is there any aspect of that statement that
17 you do not understand?
18 A. I don't know.
19 Q. Well, what do you mean by you don't know?
20 A. I don't know what all is envisioned by the
21 statement. I didn't write it.
22 Q. I understand that.

1 know what the GAO wanted or didn't want. They did not
2 deal on the issue with me.
3 Q. Whom did they deal with?
4 A. My understanding is that they dealt with the
5 committee chairman.
6 Q. Well, did the committee chairman, Jackie
7 Schafer, discuss with the members of the committee when
8 the GAO should be given access to the documentation that
9 the committee was receiving?
10 A. Yes, and I believe that is when the offer to the
11 GAO of this data that they didn't like because of Vietnam
12 and the Persian Gulf occurred. My understanding is that
13 they were offered data, looked at the voluminousness of
14 the data and how it was organized, and didn't want to deal
15 with it.
16 What they did want was our final conclusions,
17 and my impression is that Ms. Schafer attempted to get
18 together with them over a period of time as we were
19 arriving at those final conclusions and recommendations.
20 It is my impression, further, that there was an attempt
21 repeatedly, to provide them what was described by the GAO
22 as boxes of information. And so -- you know, that is what

1 I know.

2 Q. Well, did Ms. Schafer ever discuss with the Base
3 Structure Committee the fact that as early as February 11,
4 1991, the GAO had been seeking access to certain types of
5 data from Ms. Schafer in order to effectively monitor the
6 process of the BSC?

7 A. Effectively monitor the process of the BSC?

8 Q. Yes.

9 A. I don't know that either their job or their
10 intent was to monitor our progress.

11 Q. To monitor the process -- the process, not the
12 progress --

13 A. I certainly recall her saying that she had
14 received communications from the GAO asking for data, and
15 it is my impression that the data was provided to the GAO
16 as soon as it was felt to be available. Now when those
17 times are, I don't know.

18 Q. Well, isn't it a fact, sir, that Ms. Schafer's
19 position, as discussed with the Base Structure Committee
20 including you, was that any data which was in the process
21 of evaluation was subject to change until the Secretary of
22 the Navy made his recommendations on base closures, and

1 A. I can only tell you what I was aware of what
2 they were supposed to do.
3 Q. Well, do you mean to say -- if your answer, sir,
4 is that you were not aware of whether the requirement was
5 that the GAO do that as it occurred, you can say that, but
6 I would like an answer.
7 A. Okay. I was not aware that the GAO was to
8 monitor on a day-for-day basis the process as it occurred.
9 Q. All right. Again, the first paragraph of the
10 draft letter.
11 A. This one?
12 Q. Yes. Nemfakos 5.
13 A. Okay.
14 Q. The last sentence in the first paragraph. Typed
15 in is the Navy Department. But that is stricken and it
16 appears to be "your staffs" is written in above the typed
17 words. Do you see that, sir?
18 A. Yeah, I see it.
19 Q. I'm now going to read it to you as it's been
20 amended --
21 A. I couldn't make it out but now that you say your
22 staffs --

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1 longer than anticipated and therefore making the
2 availability of data to the GAO more time consuming, and
3 therefore impacting the GAO's timetable, was discussed.
4 Q. Well, sir, is it your recollection that the Base
5 Structure Committee was providing data to the GAO as
6 requested by the GAO on an ongoing basis starting in
7 February 1991?
8 MR. BATTEN: Asked and answered.
9 THE WITNESS: They weren't dealing with me.
10 They were dealing with somebody else. I was aware there
11 were discussions ongoing. It was also my impression that
12 at a certain point in time well before we finished our
13 deliberations, attempts were made, several, to provide
14 data to the GAO.
15 BY MR. PITTINSKY:
16 Q. Well, you see here on March 11th --
17 A. Yes.
18 Q. They state, "The following data is the minimum
19 we believe we need immediately." Do you see that, sir?
20 A. Yes.
21 Q. Obviously they didn't have it before that time.
22 A. Apparently not.

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1 Q. All right.

2 A. Or at least they allege they did not.

3 Q. So my question is, was there any discussion at

4 the Base Structure Committee regarding providing the

5 information that is listed on the second page of Nemfakos

6 5 to the GAO so it could perform or seek to perform its

7 responsibilities in validating the Navy process?

8 A. My recollection is that we discuss the provision

9 of data to the GAO, and our conclusion was that we should

10 provide to the GAO that data that we had available to us

11 that we had looked at.

12 Q. Well, let's look at the data listed on the

13 second page of Nemfakos 5.

14 A. Yes.

15 Q. As of March 11, 1991, did the Base Structure

16 Committee have data relating to functional categories of

17 the Navy activities placed in each category?

18 A. I would say that that would have been included

19 in the VCNO study that we had available to us at that

20 time.

21 Q. Would that data be in any other documentation

22 that you had available to you at that time?

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1 A. I don't know. I'm uncertain on the timing. But
2 on the one thing I would say I could give you a safe
3 answer.
4 Q. Which is the VCNO study?
5 A. Yes.
6 Q. Did the Base Structure Committee provide the GAO
7 with the VCNO study on or prior to March 11, 1991?
8 A. It's my impression that an attempt was made to
9 provide some data. But again it's an impression. I don't
10 know what data. Okay?
11 Q. All right. Ms. Schafer should know that?
12 THE WITNESS: Certainly.
13 MR. BATTEN: Objection. He's not in a position
14 to testify as to what Ms. Schafer knows.
15 THE WITNESS: Sorry. I already let "certainly"
16 out of the bag.
17 BY MR. PITTINSKY:
18 Q. He's certainly entitled to testify as to his
19 understanding of what she would know.
20 MR. BATTEN: Absolutely. I'm just making that
21 clarified.
22 BY MR. PITTINSKY:

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1 Q. The second category listed is the major factors
2 and evaluation components to be used in evaluating
3 activities and the definitions of each. Do you see that,
4 sir?
5 A. Yes, I do.
6 Q. Did that exist in documentary form as of March
7 11, 1991?
8 A. Again, I would say that some or all of that
9 existed in the VCNO study.
10 Q. All right. Was some or all of that in any other
11 documentation?
12 A. Available at that point in time?
13 Q. Yes.
14 A. I couldn't answer that for sure.
15 Q. All right. The next category is the capacity
16 analysis, i.e., the data used to determine requirements
17 and the data used to determine existing capacity within
18 the functional categories. Did documentation relating to
19 that information exist as of March 11, 1991?
20 A. In the context of what we used, I would say some
21 if not all of that was still in the process of being
22 generated.

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1 personally.

2 A. Understood; understood.

3 Q. Did you endeavor to find out how much of the

4 work on a nuclear ship is nuclear-related and how much on

5 a nuclear ship is non-nuclear-related?

6 A. We may have, but in any case, it would not have

7 been germane.

8 Q. Why is that?

9 A. Because you're not going to cut the ship in

10 pieces and do part of the work in a non-nuclear yard and

11 the other part of the work in a nuclear yard. If you are

12 going to induct a nuclear ship, you are going to do all

13 the ship work, both nuclear and non-nuclear, in the same

14 location.

15 Q. Sir, in your probing analysis -- the committee,

16 again, as a whole -- did anyone seek to determine whether

17 it made more sense to close a nuclear shipyard because of

18 the non-nuclear ship work being performed in all of the

19 nuclear shipyards, so that you would have, after closing a

20 nuclear shipyard, a higher percentage of work being

21 performed at the five remaining nuclear shipyards on

22 nuclear shipyard work and keep open the two non-nuclear

1 shipyards?

2 MR. BATTEN: That was a long question. I'm not

3 sure I understood it. If you understood it, you can feel

4 free to answer it.

5 MR. PITTINSKY: Did you understand it?

6 THE WITNESS: I will answer what I understood.

7 MR. PITTINSKY: Fine.

8 THE WITNESS: We looked at the workload in the

9 future and we looked at the availability of that workload

10 and what it would be driven by. We looked at

11 considerations of home boarding. We looked at a broad

12 series of judgments in terms of where work should go and

13 how it would be placed in there. The workload was nuclear

14 ships work that was driving in the out-years the capacity

15 requirement. So therefore closing a nuclear shipyard to

16 have nuclear ships -- which is where the workload

17 requirement was -- done else, did not appear to make much

18 sense.

19 A. Sir, would it surprise you to learn that

20 approximately half of the work in a nuclear shipyard is on

21 non-nuclear ships?

22 Q. Depending on the yard, no, it would not surprise

1 me.

2 A. Well, then, it wouldn't take a rocket scientist,

3 sir, to say that if we have six nuclear shipyards where

4 the work is approximately on the average 50 percent

5 nuclear and 50 percent non-nuclear, it doesn't impact on

6 the ability of the nuclear shipyard work to close a

7 nuclear shipyard?

8 MR. BATTEN: Objection. You can answer it.

9 THE WITNESS: Well, not being a rocket

10 scientist, I don't know what conclusion he would arrive

11 at. What I am saying to you is based on the data that we

12 were provided, the conclusion that we reached was that in

13 terms of capacity analysis, the nuclear shipyards were

14 required to be kept in place.

15 BY MR. PITTINSKY:

16 Q. Even though only approximately half of the work

17 done in a nuclear shipyards is on nuclear ships?

18 A. Yes.

19 Q. Again, looking at Nemfakos 6, the Norfolk Naval

20 Shipyard is a nuclear shipyard. Correct?

21 A. Yes.

22 Q. And that's located on the east coast?

1 A. Yes.

2 Q. Well, did anyone give any consideration to

3 eliminating one of the three nuclear shipyards on the east

4 coast?

5 A. Certainly we examined that issue, but again,

6 given the capacity analysis and given the workload that

7 was coming in the future, our determination was that it

8 was not the correct thing to do.

9 Q. But your capacity analysis, to the best of your

10 recollection, did not distinguish between the nuclear ship

11 work in a nuclear shipyard and the non-nuclear ship work

12 in a nuclear shipyard?

13 A. And as I indicated to you earlier, that

14 particular distinction is not germane.

15 Q. No, you said it wasn't germane that the work on

16 a nuclear ship might be part non-nuclear. You did not say

17 that with respect to non-nuclear ship work on a non-

18 nuclear ship being conducted in a nuclear shipyard.

19 A. I see. I'm sorry. I didn't understand the

20 point you were making. So if you could make it again.

21 Q. I'll rephrase it.

22 A. Thank you.

1 MR. BATTEN: Objection.

2 BY MR. PITTINSKY:

3 Q. Correct?

4 A. I don't know.

5 Q. Do you recall ever seeing this document before

6 -- the second page?

7 A. No.

8 Q. You never recall seeing the second page?

9 A. No, I don't.

10 Q. Do you see next to Quality of Facilities, the

11 left-hand column half way down the page?

12 A. Ah. Okay. Got it.

13 Q. Do you see to the left there, handwritten in is

14 the statement. "Nemfakos wants more weight here." Do you

15 see that?

16 A. Certainly.

17 Q. Do you recall that at some time during the

18 deliberations of the base structure committee, you

19 expressed the opinion that the factor, quality of

20 facilities, should be given more weight?

21 A. Yes. When we were dealing with the VCNO study

22 and that is one of the criteria of the VCNO study. One of

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1 the things that we did discuss was the quality of the
2 facilities. And I believed that the quality of the
3 facilities was a very germane issue with regard to judging
4 facilities Department of the Navy-wide.
5 Q. I understand that. And so you expressed the
6 opinion that more weight ought to be given to that factor.
7 A. I certainly did.
8 Q. And was that one of the reasons why you felt the
9 VCNO study was not appropriate to be relied upon by the
10 Base Structure Committee?
11 MR. BATTEN: Objection. I don't think he's
12 testified to that.
13 MR. PITTINSKY: I asked him.
14 MR. BATTEN: Okay.
15 THE WITNESS: There were a series of questions I
16 had with regard to the presentation in the VCNO study.
17 That was one of them. I don't know that that was the most
18 significant one.
19 BY MR. PITTINSKY:
20 Q. What was the most significant one?
21 A. I couldn't recall off the top of my head, but
22 things like assignments of values for weather; assignments

1 of values for location and the like, would have in my mind
2 been significant questions that I would have had.
3 Q. Well, you disagreed with the VCNO study to the
4 extent that it placed weight on those factors. Correct?
5 A. No. That's not what I said. What I said was
6 that there were questions that I had with regard to the
7 values that were placed in those criteria across the board
8 for a variety of Department of the Navy activities.
9 Q. All right. You -- I'm not limiting to shipyards
10 -- you disagreed with the emphasis placed by the VCNO
11 study on those factors.
12 A. Disagreed. Disagreed is a value judgment, and
13 I'm not making a value judgment. What I'm saying to you
14 is we examined the data presented, and I had some problems
15 with some of the data presented.
16 Q. Including the data relating to deployment?
17 A. Yes.
18 Q. And site and weather?
19 A. Yes.
20 Q. And your problem was you didn't agree with the
21 VCNO study?
22 A. No. My problem was that in the face of

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1 questions with regard to why those values, the answers
2 provided were unsatisfactory.
3 Q. Right. So you concluded that the VCNO study in
4 those respects was not useful and not helpful?
5 A. We concluded that the VCNO study could form a
6 basis for starting our analysis and evaluation but, given
7 the fact that there were several questions that we had
8 with the data presented, we would have to gather
9 additional information.
10 Q. Isn't it a fact, sir, that the BSC believed that
11 the VCNO study with respect to site, deployment, and
12 weather, was not helpful?
13 A. We had several questions that they had a
14 difficult time coping with in those areas, yes. And I
15 think I've said that to you.
16 Q. Is the answer yes, to the point it was not
17 helpful?
18 MR. BATTEN: He's answered the question.
19 THE WITNESS: It was yes to the point that we
20 needed additional information.
21 MR. PITTINSKY: Would the reporter please mark
22 as Nemfakos 7 for identification a document dated May 24,

1 under the heading BSC Review Process -- do you see that,
2 sir?
3 A. Yes, sir.
4 Q. The statement is made, "The BSC discussed
5 shipyards and shipyard capability with several senior
6 officials including the admiral responsible for
7 supervising all naval shipyards and the admiral in charge
8 of Naval Sea Systems Command, NAVSEA." Do you see that?
9 A. Yes.
10 Q. Who was the admiral responsible for supervising
11 all naval shipyards that is referenced there?
12 A. I believe the reference is to Admiral Claman.
13 Q. All right. And who was the admiral in charge of
14 NAVSEA that's referenced there?
15 A. I believe the reference is to Admiral Hekman --
16 Vice Admiral Hekman.
17 Q. Is it a fact that the BSC discussed shipyards
18 and shipyard capability with both Admiral Claman and
19 Admiral Hekman?
20 A. Yes.
21 Q. You then say -- not you, the report states,
22 "Although both identified Philadelphia as the shipyard

1 needed least, neither were helpful in providing a picture
2 of where additional closures could be made." Do you see
3 that, sir?
4 A. Yes.
5 Q. Is that a true statement?
6 A. I think that's a fair statement.
7 Q. Well, isn't a fact, sir, that Admiral Hekman's
8 position was that Philadelphia should not be closed at
9 all?
10 A. It has been reported that that's Admiral
11 Hekman's position.
12 Q. When you say it's been reported, isn't that the
13 position he communicated to the BSC?
14 A. He communicated a series of alternatives -- not
15 communicated; that's the wrong terminology. In his
16 presentation in response to the questions that we had
17 raised, a series of alternatives were presented, including
18 an alternative which maintained the Philadelphia Naval
19 Shipyard as a significantly smaller repair -- I guess is
20 the best way I could categorize it -- activity.
21 But I believe what information Admiral Hekman
22 provided to the Base Structure Committee is in the record

1 and you could verify that point.

2 Q. Well, you personally participated in this

3 questioning process. Correct?

4 A. Yes, sir.

5 Q. And you were present when Admiral Hekman made

6 his presentation. Correct?

7 A. Yes, I was.

8 Q. My question to you, sir, isn't it a fact that

9 Admiral Hekman's preferred position was that Philadelphia

10 not be closed at all?

11 A. His preferred position as I recall it in terms

12 of the alternative that he would recommend most highly of

13 the several that we discussed was that it be sharply

14 downsized but not closed.

15 Q. All right. Isn't it a fact that Admiral Claman

16 communicated to the Base Structure Committee his position

17 that the Philadelphia yard should not be closed at all?

18 A. My recollection is that Admiral Claman was there

19 when Admiral Hekman was there on this particular point,

20 and it would have been inappropriate for a subordinate to

21 take on the role of his superior. I think the view of the

22 Naval Sea Systems Command was presented by Admiral Hekman,

1 not Admiral Claman. Admiral Claman was there to amply,
2 certainly, and to provide at a subsequent meeting
3 additional information. But the recommendation, as I
4 believe it at that point in time, was the recommendation
5 of Admiral Hekman.
6 Q. Who was the Chief of Naval Operations at this
7 time?
8 A. It was Admiral Kelso.
9 Q. All right. Was Admiral Kelso in OP 043?
10 A. No, sir. Admiral Kelso is the Chief of Naval
11 Operations.
12 Q. So he is not in any of the OP groups? He's at
13 the head of the pyramid, in effect?
14 A. Right.
15 Q. So that Admiral Hekman would be regarded as a
16 subordinate of Admiral Kelso?
17 A. Certainly a military subordinate.
18 Q. Yes, that's what I meant. And would Admiral
19 Loftus be regarded as a subordinate of Admiral Kelso in
20 the military sense?
21 A. Yes, sir.
22 Q. In terms of an organization chart, would Admiral

1 A. Yes.

2 Q. Now would you turn to page 2, please?

3 A. Yes, sir.

4 Q. About a third of the way down the page, Mr.

5 Behrmann, who is a member of the Courter Commission staff,

6 is that correct?

7 A. Yes, sir.

8 Q. He states, "Instead of that, provide a narrative

9 to explain why you gave the overall military rankings."

10 Do you see that, about a third of the way down the page?

11 A. Got it. I'd picked up the earlier one.

12 Q. According to this document, Ms. Schafer said,

13 "We gave the reasons for ones we proposed closing. Now

14 you are asking us to give you the reasons for not closing

15 the yellows." Do you see that?

16 A. Yes.

17 Q. Then according to this, you stated, "It's

18 subjective. We started with the comments of operators

19 and then questioned them. There was a lot of give and

20 take. We can't reconstruct that." Is that your

21 statement? Is that what you said?

22 A. It is not fully accurate, no.

1 Q. It is not fully accurate?
2 A. No.
3 Q. In what way is it not accurate?
4 A. I do not recall the comment, "It's subjective."
5 Q. Do you recall that you did not say that?
6 A. I don't recall saying it.
7 Q. Do you recall that you did not say it?
8 A. I don't recall saying it.
9 Q. Would you answer my question, please. I
10 understand you don't recall saying it. My question is, do
11 you recall not saying it? In other words, what I'm asking
12 you, sir, is it that you simply have no recollection as to
13 whether or not you said this.
14 A. I don't recall saying it's subjective.
15 Q. I want to know whether you have a recollection
16 that you did not say it.
17 A. And I guess what I'm telling you is I'm more
18 comfortable answering your question truthfully in the
19 manner that I am, that I do not recall saying -- remember,
20 this was a room full of people all talking at the same
21 time -- it's subjective.
22 Q. You're saying that everybody was speaking at the

1 by the BSC, they were still intended to be
2 interchangeable, essentially?
3 A. Generally dealing with the same issues, yes.
4 Q. All right. Now going back to the second page of
5 Nemfakos 8, according to this record, after you said, "We
6 didn't use numbers for four criteria and plugged them into
7 machine," you then said, "The answers would make us close
8 the wrong bases." Do you see that?
9 A. Yes, sir.
10 Q. Did you make that statement?
11 A. No, I did not make that statement.
12 MR. PITTINSKY: I think you can see, Mr. Batten,
13 why we need to know the identify of the person who
14 prepared this document. And I will go a step further
15 because I know we are all on a very tight schedule. I
16 would like to depose the individual who authored Nemfakos
17 8 on Friday afternoon, a week from today.
18 BY MR. PITTINSKY:
19 Q. After this document records that you said the
20 answers would make us close the wrong bases, according to
21 this document, you stated, "That's the process we used in
22 1988 and we weren't happy with it." Do you see that?

1 A. Yes.

2 Q. Did you make that statement?

3 A. I don't believe I did.

4 Q. According to this document, you then stated,

5 "You can't reduce such subjective things to numbers." Do

6 you recall saying that?

7 A. I do not recall saying that.

8 Q. Do you recall that anyone else made the

9 statements in this particular paragraph?

10 MR. BATTEN: My understanding in all of these

11 questions is that you are interpreting this paragraph as

12 direct quotations rather than paraphrasing. Is that

13 right?

14 MR. PITTINSKY: Either made these statements

15 exactly or the substance of them.

16 MR. BATTEN: That may be a different question

17 than he's been answering.

18 MR. PITTINSKY: My point is this witness has

19 basically denied that he made the vast majority of the

20 statements in this particular part of the text, and so I'm

21 asking him does he recall that somebody else made them.

22 Maybe he believes that they were improperly ascribed to

1 eight naval shipyards were losing significant sums in
2 fiscal '89, Philadelphia made a profit?
3 MR. BATTEN: Objection. You can answer it.
4 THE WITNESS: No, it wouldn't surprise me.
5 BY MR. PITTINSKY:
6 Q. Would it surprise you if in fiscal '90, the
7 eight naval shipyards lost $151 million, and Philadelphia
8 made a $243,000 profit?
9 MR. BATTEN: Objection. You can answer.
10 THE WITNESS: No, it wouldn't surprise me.
11 BY MR. PITTINSKY:
12 Q. Well, then who would be making the kind of
13 statement to the Courter Commission that Philadelphia
14 costs $75,000,000 to $100,000,000 a year.
15 A. I don't know with any precision what that refers
16 to because obviously I don't recognize the number off the
17 top of my head. But in the context of the material that
18 you have given me here, my assumption would be that what
19 it is talking about here is the infrastructure cost of
20 keeping a yard open, not the annual position vis-a-vis
21 budgeted costs of work to be performed.
22 Q. Well, isn't there an infrastructure cost to keep

1 satisfactory response could be made to the questions
2 posed. I don't believe there was agreement on this
3 particular point.
4 Q. During the course of the BSC deliberations, was
5 there any discussion about the kind of Navy, in terms of
6 fleet characteristics, that would exist by the year 2000?
7 A. There certainly was a very significant concern
8 that we not assume a size of the Navy disproportionate or
9 out of the context of the decisions that had been recently
10 made by the Secretary of Defense and the President of the
11 United States, to downsize the Navy.
12 Q. That's a fair response. I'm directing my
13 question more to the question of nuclear versus non-
14 nuclear.
15 A. Can you give me a little more?
16 Q. Was there any discussion, during the course of
17 the BSC deliberations, as to the way the Navy would look
18 in the year 2000, in terms of the number of carriers and
19 ships and vessels that would be nuclear and the number
20 that would non-nuclear, and the relative importance?
21 A. Not relative importance, but certainly there was
22 an understanding that, for example, if one takes carriers,

1 given the number of carriers under construction and the
2 age of the various carriers involved, the number of fossil
3 fuel-driven carriers by the year 2000 -- if that's a good
4 number for you -- by the year 2000 would be sharply
5 reduced and there would a greater percentage of the now
6 much reduced number of total carriers, remembering that we
7 were dropping four carriers as a minimum, in the period of
8 recent history and in the future, would be much more of a
9 nuclear nature. And I believe in one of the other
10 documents that you gave me, the numbers that were given
11 were eight and four.
12 Q. Well, isn't it a fact that seven of the eight
13 carriers in the Persian Gulf, during the Persian Gulf war,
14 were non-nuclear, conventional fossil fuel carriers?
15 MR. BATTEN: Objection.
16 THE WITNESS: I have no immediate knowledge of
17 the operational characteristics of the Persian Gulf.
18 BY MR. PITTINSKY:
19 Q. Are you aware of the fact that nuclear carriers
20 cannot go through the Suez Canal?
21 MR. BATTEN: Objection. I can't see the
22 relevance of that. You can go ahead and answer.

OFFICIAL TRANSCRIPT
BEFORE THE

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SENATOR ARLEN SPECTER, et al.,

Plaintiffs,

v.

H. LAWRENCE GARRETT, III,
the Secretary of the
Navy, et al.,

Defendants.

CIVIL ACTION NO.

91-CV-4322

Hon. Ronald J. Buckwalter

Arlington, Virginia
Thursday, September 26, 1991

Deposition of JACQUELINE E. SCHAFER

ALDERSON REPORTING COMPANY, INC.
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SUITE 400
WASHINGTON, D.C. 20005
(202) 289-2260

1 to joining the Navy?

2 A. I was a special assistant in the Department of

3 the Interior, U.S. Government.

4 Q. Prior to joining the Navy, had you been

5 employed by any military branch of the United States

6 Government?

7 A. No.

8 Q. When you joined the Navy on March 12, 1990,

9 what was your position?

10 A. In the Navy?

11 Q. Yes.

12 A. Assistant Secretary of the Navy for

13 installations and environment.

14 Q. And is your designation the ASN I&E?

15 A. That's correct.

16 Q. And do you still hold that position today?

17 A. I do.

18 Q. To whom do you report today?

19 A. Secretary of the Navy, H. Lawrence Garrett,

20 III.

21 Q. And when you first became Assistant Secretary

22 of the Navy for installations and environment, did you

1 Q. You don't recall that?
2 A. That's correct.
3 Q. Do you have any reason or basis for disputing
4 Ms. MacKinnon's statement in Schafer 1 that, in fact,
5 Secretary Garrett did request the 1990 stealth list?
6 A. I do not recall that he asked that of anyone.
7 Q. Well, do you recall -- I am sorry, go ahead.
8 I did not mean to interrupt you.
9 A. That's quite all right.
10 Q. Did you have anything else to say?
11 A. No.
12 Q. Well, do you recall that Secretary Garrett
13 stated that he wanted to review your recommendations
14 resulting from the BSC deliberations and the 1990
15 stealth list before making his decision?
16 A. No.
17 Q. Well, do you have any reason or basis for
18 disputing that, in fact, Secretary Garrett did request
19 the stealth list before he made his decision?
20 A. He did not make such a request of me. I did
21 not hear him make such a request of anyone.
22 Q. Have you ever heard, I think I asked you this

1 MR. BATTEN: That fact has not been
2 established.
3 MR. PITTINSKY: Fair enough. I will rephrase
4 the question.
5 BY MR. PITTINSKY:
6 Q. Do you have any basis or reason for disputing
7 what Ms. MacKinnon has written here; namely, that
8 Secretary Garrett requested a 1990 list of base closures
9 and realignments?
10 MR. BATTEN: Asked and answered.
11 MR. PITTINSKY: That question has not been
12 asked and answered.
13 THE WITNESS: He made no such request of me.
14 BY MR. PITTINSKY:
15 Q. Of you.
16 A. And I recall no such request having been made.
17 Q. Admiral Loftus was present at this meeting,
18 correct?
19 A. I don't recall. I presume but I don't recall
20 exactly.
21 Q. You know he was invited, you are just not sure
22 whether he was there?

1 presented to the Chief of Naval Operations, Admiral
2 Kelso?
3 A. I don't know that it was.
4 Q. Well, I am not asking you whether you know for
5 a fact. I am just asking whether you had any
6 understanding about that subject. Let me put it this
7 way. What was your understanding as to what happened to
8 this list of options or recommendations?
9 A. Well, for one thing, it was presented to the
10 Base Structure Committee.
11 Q. When was that presented to the Base Structure
12 Committee?
13 A. Some time during the course of our
14 deliberations after January and before the end of March.
15 Q. Who presented it?
16 A. Admiral Drennon.
17 Q. And when Admiral Drennon presented them, did
18 he explain these were, again, options or recommendations
19 of the Three Star Advisory Group?
20 A. I believe he characterized them as options for
21 us, if we wanted to, to consider as part of the input
22 for making our analysis and decisions.

1 Q. Yes. But my question may not have been as
2 clear as it could have been. Did he explain that these
3 were options that had emanated from this group headed by
4 Admiral Smith, this Three Star Admiral Advisory Group?
5 A. I believe he characterized those options as
6 presentations that were made to the CNO by members of
7 his staff that were made available, in turn, to us, as
8 input for our deliberations.
9 Q. Now, getting back to the meeting you had with
10 Secretary Garrett on March 27th, do you recall whether
11 Secretary Garrett asked you or anyone else present at
12 the meeting for the recommendations or options that the
13 Three Star Advisory Committee had come up with?
14 A. No.
15 Q. You see that in this memorandum of Ms.
16 MacKinnon of March 28th that she says "informal feedback
17 from the later meeting was: CNO appeared reluctant to
18 close any shipyard. Long Beach is still contentious
19 (apparently Philadelphia is not). Three stars
20 recommendation (stealth list) to be considered today."
21 Do you see that?
22 A. I see it, yes.

1 that it was CNO Kelso who decided that Long Beach should
2 not be on the closure list?
3 A. Which closure list are you referring to?
4 Q. The BSC's closure list, recommended closure
5 list.
6 A. The CNO wasn't the decider for the BSC. He
7 was not a member of the BSC. And he made no
8 recommendation to the BSC.
9 Q. Well, do you recall that there were a series
10 of meetings between the Navy Base Structure Committee
11 and some of its staff and the Defense Base Closure and
12 Realignment Commission staff in late May 1991?
13 A. The Defense Base Closure and Realignment
14 Commission staff met with the Base Structure Committee
15 and I was present at one of those meetings. Does that
16 answer your question?
17 Q. Yes. Let me show you a document previously
18 marked as NemFakos 8 for identification. And in
19 particular I am going to direct your attention to the
20 last two pages, Bates numbered 590 and 591.
21 And I will point out to you that you were not
22 at least listed as being present at this meeting but if

1 Do you see that statement?
2 A. Yes.
3 Q. Does that refresh your recollection that the
4 Chief of Naval Operations said that he needed the Long
5 Beach Naval Shipyard and therefore the BSC should not
6 close it?
7 A. The Chief of Naval Operations never said to me
8 what his preference was concerning the Long Beach Naval
9 Shipyard. There were presentations made to the Base
10 Structure Committee on the significance of the Long
11 Beach Naval Shipyard and the dry dock there, which was
12 persuasive, about the importance of that facility and
13 that asset.
14 Q. Well, who made those presentations?
15 A. I don't recall exactly. We had a number of
16 meetings concerning the shipyards and a discussion, and
17 it could have been one or more individuals. I don't
18 recall exactly why I know about the importance of that
19 asset; that is, who communicated that information to me,
20 but there were presentations made by the OPNAV --
21 representatives of the OPNAV staff as well as the people
22 in the NAVSEA organization.

1 A. It would have been the May 1, May 2 time
2 frame.
3 Q. Did you read it when you received it?
4 A. I suppose I did. I don't recall.
5 Q. It would be your custom and practice to read
6 it?
7 A. Certainly.
8 Q. Did you know who Donna Heivilin was?
9 A. Yes.
10 Q. Who was she?
11 A. Donna Heivilin was the head of some division
12 or branch in GAO concerning Defense Department matters
13 generally and was the person who requested the
14 interview -- who called me to request that my committee
15 be available to meet with her and members of the GAO.
16 Q. On May 7?
17 A. Yes. She called me before that when I got
18 back to town, there was a phone call waiting which I
19 returned when I got back, and I don't remember whether
20 that was May 1 or May 2. It was a Thursday, as I
21 recall, I reached her on a Thursday and we arranged the
22 meeting and at a mutually convenient time, which turned

1 to the Commission.

2 Q. Well, isn't it a fact that the BSC arrived at

3 its gradings of naval installations in these executive

4 sessions or meetings between the BSC and certain senior

5 naval officials?

6 A. Can you repeat the question?

7 Q. Isn't it a fact that the BSC arrived at its

8 gradings of the naval installations at either executive

9 sessions or meetings, whatever you want to call them,

10 between the BSC and senior Navy officials?

11 A. Some of them, yes, not all of them.

12 Q. Some of them, correct?

13 A. That's correct.

14 Q. And others were arrived at at internal

15 discussion at meetings of just the BSC, other gradings?

16 A. I don't see a difference between the two cases

17 you just posed.

18 Q. All right. Well, you did not keep any minutes

19 of the meetings of the BSC, correct?

20 A. I did not.

21 Q. Nor did anyone else?

22 A. That's correct. That's to the best of my

1 knowledge. There were many meetings at which staff
2 meetings, staff members were in attendance and minutes
3 may have been taken of portions of those meetings but
4 they were not official minutes of the Base Structure
5 Committee.
6 Q. All right. You know of no minutes of the
7 meetings of the Base Structure Committee?
8 A. There were no minutes of the Base Structure
9 Committee that were taken in order to provide a record
10 of the Base Structure Committee's meeting at my
11 direction or one of my staff.
12 Q. And there were no minutes of the meetings
13 between the BSC and senior Navy officials, at which
14 certain naval installations were graded by the BSC?
15 A. You will have to clarify that last question.
16 When I hear you say the word senior Navy officials, I
17 was thinking that, of course, members of the BSC include
18 senior Navy officials.
19 Q. I am referring to the fact that, as I
20 understand it, the BSC deliberations involved a lot of
21 question and answers.
22 A. Yes.

1 Q. Which were propounded by members of the BSC to
2 other senior Navy officials?
3 A. Yes. The BSC members, part of our review and
4 data gathering and information gathering involved
5 questioning senior Navy officials, including the various
6 flag officers, yes.
7 Q. And there were no minutes of those meetings?
8 A. There were no minutes of the BSC meetings. As
9 I said, there were lots of people in the room and anyone
10 could have taken personal notes.
11 Q. I understand that. Now, therefore, when you
12 read this memorandum from Mr. Rose, Schafer 2, you
13 understood that the GAO staffers were referring to the
14 BSC executive sessions as a black hole and that the
15 Commission staff was referring to them as the 22 minute
16 gap, correct?
17 A. That's what this says.
18 Q. And that was what you read, correct?
19 A. Um-hum.
20 Q. What was your understanding of what they were
21 referring to?
22 A. That they had difficulty reconciling the

1 grades which were assigned to naval installations by the
2 OPNAV staff and the grades that were assigned to
3 installations by members of the Base Structure
4 Committee, and that they were requesting a meeting to
5 try to clarify the connection between the two.
6 Q. Now, is it is your testimony that when you
7 went to the May 7 meeting with the GAO that you
8 satisfied them?
9 A. The GAO meeting on May 7 was, I thought, a
10 very positive meeting. And at the end of the meeting it
11 is my perception that they were satisfied with our
12 process but had questions or concerns remained about our
13 documentation and that was the take I had on that
14 meeting.
15 (Recess)
16 BY MR. PITTINSKY:
17 Q. Ms. Schafer, were you aware that at the May
18 22nd, 1991 meeting between the Navy Base Structure
19 Committee and its staff and the staff of the Defense
20 Base Closure and Realignment Commission, your principal
21 deputy informed the Commission staff that it was
22 impossible for the Navy Base Structure Committee staff

1 Q. Well, you look through 1-B. If you think
2 there should be more attached, let me know. You are
3 saying that you believed your memo, your procedures
4 memo, issued on January 28th, 1991 was the Navy's
5 internal control plan?
6 A. Yes, I do. In addition, we exercised other
7 controls. It is my view that the Base Structure
8 Committee itself formed a kind of control on information
9 that was presented to us through our questioning the
10 staff and I accept the responsibility for the procedures
11 carrying out the OSD guidance.
12 Q. And the GAO did not agree with you, right,
13 page 48?
14 A. GAO said the Navy did not assign
15 responsibility for developing and implementing such a
16 plan. And my position is that that responsibility for
17 carrying out all OSD guidance, including the development
18 of a plan, was my responsibility. And I believe I did
19 that in the January 28 memo.
20 Q. Would you look at page 5, please, of Yellin
21 2. There under the title the Navy's Process and
22 Recommendations, the GAO states, "Due to inadequate

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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the Secretary of the
Navy, et al.,

Defendants.

CIVIL ACTION NO.

91-CV-4322

Hon. Ronald J. Buckwalter

Arlington, Virginia
Thursday, September 26, 1991

Deposition of GEORGE N. TZAVARAS

ALDERSON REPORTING COMPANY, INC.
1111 FOURTEENTH STREET N.W.
SUITE 400
WASHINGTON, D.C. 20005
(202) 289-2260

499

1 P R O C E E D I N G S

2 Whereupon,

3 GEORGE N. TZAVARAS,

4 was called as a witness by counsel for Plaintiffs, and

5 having been duly sworn by the Notary Public, was

6 examined and testified as follows:

7 EXAMINATION BY COUNSEL FOR PLAINTIFFS

8 BY MR. PITTINSKY:

9 Q. Would you state your name for the record,

10 please?

11 A. George Nicholas Tzavaras.

12 Q. Would you please briefly describe your

13 educational background?

14 A. I graduated from the Naval Academy in 1969,

15 graduated with a graduate degree from MIT in 1971 and an

16 assortment of Navy schools along the way.

17 Q. What degree did you receive from MIT?

18 A. SMCE, Master's of civil engineering.

19 Q. Have you been in the Navy since 1971?

20 A. Since 1969. In fact, since 1965 if you count

21 the Naval Academy.

22 Q. What is your present position?

1 A. I am the public works officer at Naval
2 District Washington, public works for the Navy yard.
3 Q. And you are a captain?
4 A. Yes.
5 Q. How long have you been in the public works
6 position?
7 A. I reported there in May of 1991, last May.
8 Q. What position did you hold before that?
9 A. For the eight months before that I was the
10 assistant for base closures on the Chief of Naval
11 Operations staff. My code was OP-44C.
12 Q. Did you say you were the assistant for base
13 closures on the OP-44 staff?
14 A. That's right.
15 Q. And your code was OP-44C?
16 A. That's right.
17 Q. You say that was for eight months. When did
18 you start?
19 A. I reported there, I believe it was the 15th of
20 October of 1990.
21 Q. And you stayed in that position until the end
22 of April, early May of 1991?

1 Q. Right. Prior to joining the working group as
2 the assistant for base closures, had you heard of the
3 SECNAV 46 list?
4 A. Not referred to that way.
5 Q. How was it referred to?
6 A. I was aware that another list had been
7 produced at the request of SECDEF. I think because you
8 are asking questions about these things, I need to tell
9 you, give you the sequence briefly.
10 Q. Sure.
11 A. And if it is okay with you, just tell you why
12 I can do that.
13 Q. Sure.
14 A. On the Joint Staff, I was an action officer in
15 the civil engineer branch and I worked base closure
16 issues for the chairman of the Joint Chiefs of Staff.
17 In January there was a meeting --
18 Q. January 1990?
19 A. January of 1990 there was a meeting that
20 SECDEF called concerning base closures. It was an
21 EXCOM meeting that I remember.
22 Q. What is that?

1 A. Executive committee meeting. SECDEF, the
2 service Secretaries and the chairman and that's all and
3 probably in a nicer room than this.
4 Q. I hope so.
5 A. And base closures were to be discussed. I had
6 to prepare a paper for the chairman, we did. What came
7 out of that was a very short fused production of a list
8 for announcement in January along with the budget
9 because of various and sundry laws that require base
10 closures be proposed with the budget submission.
11 Out of that meeting and out of those
12 evolutions within the service staffs came the January
13 29th, I believe, 1990 SECDEF list, which we referred to
14 as the SECDEF 17 because it had 17 Navy installations on
15 it.
16 Q. I assume that that was approved by Secretary
17 Garrett, that list?
18 A. Oh, yes, I am sure it was. It can't possibly
19 have gone out if it wasn't.
20 Q. Fine.
21 A. So that starts working. It hits the presses,
22 goes into the Congress, everyone gets all upset and we

1 start working NEPA and the environmental issues that are
2 required per the law. My dates aren't exactly right but
3 some time in the early summer, probably June, there is
4 another EXCOM.
5 Q. Executive committee meeting?
6 A. Yes.
7 Q. Of the joint chiefs?
8 A. EXCOM, is SECDEF, the service Secretaries and
9 the chairman. It doesn't include anyone else.
10 Q. Fine.
11 A. Again, it is on base closures, that is one of
12 the topics. My understanding of what came out of that
13 is that the service staffs again started churning and
14 burning to produce a new recommendation. That
15 recommendation, my understanding is that the SECNAV 46
16 or however it is termed, you may have heard it termed
17 the stealth list, that list was due for publication, I
18 believe, in September or late August and, in fact, was
19 never published, except for the overseas portion of it.
20 There was an overseas portion published and is
21 proceeding.
22 But what happened between June and August or

1 September, my understanding is that the prospect of some
2 legislation on base closures come out, was evident,
3 there was dialogue with the Hill and SECDEF said: We
4 had better not -- I don't know that he said this. I
5 have got to be clear. The decision was made by
6 someone: We are not going to announce another CONUS set
7 of closures.
8 Q. What is CONUS, C-O-N-U-S?
9 A. Continental United States, U.S.
10 Q. Fine.
11 A. We have legislation pending. The SECDEF,
12 SECNAV 46 or stealth list was never published. That's
13 why it was called the stealth list because it never was
14 published. It was essentially put away, never to be
15 discussed again.
16 Q. Well, when you say never to be discussed
17 again, what do you mean?
18 A. There wasn't going to be another SECDEF
19 announcement based on that list.
20 Q. You mean -- let me see if I can -- I am not
21 trying to put words in your mouth. Is what you are
22 saying that there was going to be no official release

1 Do you see that?
2 A. Yes.
3 Q. First of all, do you know what that reference
4 is to the Base Closure Advisory Committee?
5 A. Yes.
6 Q. What is that?
7 A. After the January '90 SECDEF announcement on
8 base closures, and again I don't have firsthand
9 knowledge because I picked it up, VCNO chartered a VCNO
10 study of naval installations, a bottoms-up type review
11 of all the installations.
12 My feeling and my understanding is that they
13 didn't like the way the January list was produced, a
14 very short fused kind of a crisis situation and he felt
15 we needed a more structured, a more easily reviewed
16 process. And he chartered his VCNO study.
17 That VCNO study was to have help from an
18 Advisory Committee which was comprised of three stars
19 within OPNAV and some of the -- basically all the three
20 stars.
21 Q. Three star admirals, for the record?
22 A. Yes, three star admirals, people that are

1 responsible for the command or the funding of
2 installations. And the working group that you addressed
3 before was the next step down, the guys who were going
4 to do the leg work to produce something to the three
5 stars, to produce something to the VCNO.
6 Q. Right. And was it the Three Star Base Closure
7 Advisory Committee that came up with the SECNAV 46 list?
8 A. I don't know. I wasn't there. I don't know.
9 Q. But you do know that that list was developed
10 in the summer of 1990, the SECNAV 46 list?
11 A. Yes.
12 Q. And it is true that Philadelphia Naval
13 Shipyard was on the SECNAV 46 list?
14 A. I am 90 percent certain it was. I am not 100
15 percent certain.
16 MR. PITTINSKY: I would request, by the way,
17 just so there is no doubt about this, that the Navy
18 produce just one copy of the SECDEF 17 list and one copy
19 of the SECNAV 46 list for us so that there will be no
20 doubt about that subject.
21 MR. GUTMAN: We will certainly look into
22 that.

1 Q. And you see that she forwarded it to, among
2 others, Clayton Ching?
3 A. Yes.
4 Q. And Admiral Lang?
5 A. Yes.
6 Q. And Captain Williams?
7 A. Yes.
8 Q. And you see that this is a list of action
9 items for base closures that she has prepared?
10 A. Yes.
11 Q. And on the first page you see that there are
12 two action items relating to the Philadelphia Naval
13 Shipyard, one is "develop plan for disposition of
14 Philadelphia work load" and then she has in parentheses
15 (Philadelphia story) and the second is "write
16 justification why we passed up lower ranked shipyards to
17 select Philadelphia for closure."
18 Do you see that?
19 A. Yes.
20 Q. Did you understand that Ms. MacKinnon was
21 going to be working on those action attempts as part of
22 her duties for the working group?

1 A. Not having seen the document before -- I will
2 answer yes to that. But let me, because I am looking at
3 this document, this document is dated the 31st of
4 October. Philadelphia was on the January 1990 list.
5 Q. And the SECNAV?
6 A. Well, but the only list that the Navy had
7 published that we were working on was the January 1990
8 list, of which Philadelphia was included. And I am not
9 100 percent certain of the timing but in October we had
10 yet to turn off all of the 2687 and NEPA efforts for the
11 installations that were to be closed. I don't believe
12 at the end of October that had yet been turned off
13 because I don't think the legislation had been approved
14 yet.
15 So we had Philadelphia on a list. The working
16 group is now in the process of producing and getting
17 information to comply with law on the closure of all the
18 installations on that list. Now, again, I am not
19 certain of the timing, but this would have been a
20 natural series of actions to take concerning the efforts
21 that were going on from the January list.
22 In October we did not have, the Base Structure

1 Committee and the process that was to be followed under
2 the base closure legislation had not even been
3 developed. So all of these things that you see going on
4 here are going on based on the announced January list,
5 which were required on 2687 and NEPA to do. Now, that's
6 my perception of this document.
7 Q. Fine. Now, I just tell you for the record
8 that the Base Closure Act was signed into law on
9 November 5, 1990. I want you to know that.
10 A. Okay. I am glad my recollection was about
11 accurate.
12 Q. Let me show you a document previously marked
13 as MacKinnon 7. This is another one of Ms. MacKinnon's
14 memoranda dated November 16, 1990 relating to base
15 closure actions. Again, you are free to read the entire
16 document. I am referring you to the third page of it.
17 (Pause)
18 THE WITNESS: Okay.
19 BY MR. PITTINSKY:
20 Q. Have you had a chance to review MacKinnon 7?
21 A. Yes.
22 Q. Would you turn to the third page of MacKinnon

1 7, please? There you see that Mrs. MacKinnon has
2 described as one of her base closure action items,
3 develop implementation plan and time line to close
4 Philadelphia Naval Shipyard after completion of CV-64
5 SLEP. Do you see that?
6 A. Yes.
7 Q. Did you understand that as part of her
8 activities in the working group on base closures that
9 that was one of her assignments?
10 A. You characterize it as an assignment. I don't
11 think we gave her that assignment.
12 Q. Who gave her that assignment, OP-43?
13 A. I don't know.
14 Q. You don't know?
15 A. I don't know. I don't know that she was
16 assigned to do this. If you notice, the due dates of
17 pending congressional, what I see here, and I think you
18 are asking me, what I see here is good staff work, a
19 staffer anticipating.
20 Q. All right.
21 A. Once again, all of this documentation, even on
22 the 16th of November, was before the Base Structure

1 Committee was established.
2 Q. I understand that.
3 A. And before any decisions had been made, any
4 Navy decisions had been made.
5 Q. I understand that. Well, other than the
6 SECDEF 17 and the SECNAV 46 list, when you say Navy
7 decisions, but in any event --
8 A. Relating to the current round of base
9 closures, yes.
10 Q. Let me show you a document previously marked
11 as MacKinnon 10. If I may, if you would look at the
12 last page of the document, it states that these minutes
13 were prepared by Lieutenant Commander Tubello and they
14 were approved by you. Is that correct?
15 A. Yes.
16 Q. Is that your signature on the last page?
17 A. It sure is. I don't need to review that.
18 Q. And this document is dated November 27, 1990
19 and the subject of it is minutes from the November 20,
20 1990 meeting of the working group studying the
21 consolidation/realignment of the naval shore
22 establishment. Is that correct?

1 Q. The next entry in type was 15 February 1991,
2 Advisory Committee completes its deliberations and
3 forwards their recommendations to CNO. Do you see that?
4 A. Yes.
5 Q. And then February is stricken and the word
6 January is inserted. Do you see that?
7 A. Yes.
8 Q. Again, do you recognize that handwriting?
9 A. No, I don't. I don't recognize any of the
10 handwriting on this paper, short of my own signature at
11 the end.
12 Q. All right. You did understand when you
13 provided the working group on November 20 with the
14 milestones and when you approved these minutes, that the
15 Three Star Admiral Advisory Committee was to make
16 recommendations to the Chief of Naval Operations with
17 respect to base closures and realignments?
18 A. Absolutely. At the time, at the end of
19 November, once again, although I knew there was to be a
20 Base Structure Committee, there was, what do I call it,
21 gratuitously terming it negotiations going on between
22 the Assistant Secretary of the Navy installations and

1 environments office and SECNAV's office directly, there
2 were negotiations going on as to what the Base Structure
3 Committee would do and their role.
4 On the 27 of November we did not have, if you
5 will, the charter for the Base Structure Committee.
6 When I approved these minutes, this was my estimation of
7 the way things were to be. I unfortunately was wrong in
8 November, now in retrospect, I was wrong in November,
9 not in trying to do it, but in my representation of what
10 I thought the Base Structure Committee would do.
11 In fact, they did not just review and prepare
12 the Department of the Navy submission. In fact, they
13 went through the entire analysis process themselves and
14 at this time in November, I did not think they would do
15 that. And I anticipated the working group and the Three
16 Star Advisory Committee doing that.
17 Q. Right. But isn't it a fact that at the
18 December 20, 1990 meeting of the Three Star Admiral
19 Advisory Committee that they reached determinations with
20 respect to their recommendations for base closures and
21 realignments?
22 A. I don't remember if we did that on precisely

1 closures and realignments to the Three Star Admiral
2 Advisory Committee?
3 A. We would present the recommendations made by
4 the working group.
5 Q. All right. And you were going to compare your
6 working group recommendations to the recommendations
7 contained in the SECNAV 46 list?
8 A. Yes. Yes.
9 Q. Now, was there anyone from NAVSEA assigned to
10 this working group?
11 A. Absolutely.
12 Q. Was it Bonnie Flynn?
13 A. No.
14 Q. Who was it?
15 A. Captain Frank Kalas.
16 Q. K-a-l-a-s?
17 A. Yes.
18 Q. Let me show you a document previously marked
19 as MacKinnon 13 for identification.
20 (Pause)
21 BY MR. PITTINSKY:
22 Q. Would you turn, please, to page 6 of MacKinnon

1 recommended base closure and realignment candidates?
2 A. He presented all of the installations in each
3 category, walked the Advisory Committee through saying
4 here is all the installations, these are ones that have
5 been evaluated by the working group that say we
6 shouldn't close and these are the potential list of
7 candidates.
8 Q. For closure?
9 A. For closure or realignment.
10 Q. And that list was annotated to show which
11 installations were on the SECNAV 46 list?
12 A. I believe it was based on this, the minutes.
13 Because there was a SECNAV 46, any subsequent
14 recommendations or lists have to go back and say what
15 are we changing? That's why there would be annotations
16 like that.
17 Q. Let me show you a document previously marked
18 as MacKinnon 14.
19 (Pause)
20 BY MR. PITTINSKY:
21 Q. Would you turn please to page 4 of MacKinnon
22 14.

1 Q. And it is stated, "SECNAV signed the
2 instruction establishing a Base Structure Committee to
3 review base closure and realignment proposals.
4 Committee membership is as follows: " And then they list
5 the membership.
6 A. Yes.
7 Q. Then it states, "CNO must submit his base
8 closure and realignment proposals to the Base Structure
9 Committee by 6 March 1991."
10 Do you see that?
11 A. Yes.
12 Q. Was that your understanding at the time?
13 A. At that time it was. Again, the Base
14 Structure Committee, and I don't remember the date the
15 instruction was signed, must have just been signed when
16 this was sent out and determinations by the committee,
17 the Base Structure Committee, they had yet to sit down
18 and figure out what they were going to do and how they
19 were going to do it. We were still anticipating, as
20 good staffers should, what we were going to have to do
21 to support the BSC.
22 Q. Well, it was your understanding as of the

1 Advisory Committee meeting of December 20, 1990, that
2 the Advisory Committee was going to make its
3 recommendations to the CNO, the Chief of Naval
4 Operations, correct?
5 A. Yes.
6 Q. And here you are stating that it was also your
7 understanding that the Chief of Naval Operations would
8 thereafter submit his base closure and realignment
9 proposals to the Base Structure Committee, correct?
10 A. On the 20th of December -- on the 17th of
11 December, that's what I believed, yes.
12 Q. Now, did you understand in December 1990 that
13 Admiral Hekman dissented from the decision to close the
14 Philadelphia Naval Shipyard?
15 A. I don't know that he did in December.
16 Q. I am just asking for your recollection.
17 A. I stated it the wrong way. I don't know in
18 December who might have dissented.
19 Q. Let me show you a document previously marked
20 as Claman 3.
21 A. Okay.
22 Q. You see here where in the first paragraph

1 Q. I want to know if this refreshes your
2 recollection that that was his position.
3 A. What he is doing here, he talks about the
4 Secretary of the Navy having been briefed and made the
5 decision. He is talking about the January and summer
6 evolution.
7 Q. The two lists, the January 1990 --
8 A. That's right, he is referring to those lists.
9 Q. The SECDEF 17 list and the summer 1990 SECNAV
10 46 list?
11 A. That's what he is referring to. And, again
12 now, a presentation was made and I don't remember the
13 timing of it to the working group by, I think it was
14 Captain Kalas, and it may have been prior to this, that
15 the NAVSEA recommendation on Philadelphia had to do with
16 downsizing, SRF-type facility.
17 I do not remember the specific date of the
18 presentation to the working group. I believe that it
19 was reflected in the documentation that went to the
20 Advisory Committee as an option.
21 Q. Right. But the Advisory Committee rejected
22 that as an option and decided to close the Philadelphia

1 Q. Now, do you recall again that as of January
2 14, 1991 or that the mid-January 1991 meeting of the
3 Three Star Admiral Advisory Committee that the decision
4 still was to present to the Chief of Naval Operations
5 the recommendation for closing the Philadelphia Naval
6 Shipyard?
7 A. I believe the recommendation was that they
8 would provide the CNO with a recommendation and an
9 alternative so that he could decide.
10 Q. Right. But the recommendation was to close,
11 correct?
12 A. Yes.
13 Q. And the alternative was the NAVSEA position of
14 downsizing?
15 A. Yes.
16 Q. And then it was, again, as of mid-January
17 1991, it was the expectation that with the CNO approval,
18 the Philadelphia Naval Shipyard would be proposed to the
19 fiscal year '91 Base Closure and Realignment Commission
20 for closure, correct?
21 A. On the 14th of January that probably was the
22 plan. In fact, subsequent to that the BSC had decided

1 what and how they were going to do what they do and, in
2 fact, started us from ground zero again.
3 Q. Well, do you know whether or not the Chief of
4 Naval Operations ever made any recommendations of his
5 own to the BSC with respect to the closure or
6 realignment of any of the eight naval shipyards?
7 MR. GUTMAN: Answer to your knowledge.
8 THE WITNESS: To my knowledge CNO never made a
9 presentation of any recommendations to the Base
10 Structure Committee.
11 BY MR. PITTINSKY:
12 Q. Were you present at every single meeting of
13 the Base Structure Committee?
14 A. I was not present at every single meeting.
15 Can I have a second?
16 Q. Sure.
17 (Witness confers with counsel.)
18 BY MR. PITTINSKY:
19 Q. Did you want to amplify your prior answer in
20 any way?
21 A. Well, what I just said was that CNO didn't
22 give any pitches with his recommendation. CNO did not

1 document before answering, go ahead. He is pointing you
2 to this particular page.
3 BY MR. PITTINSKY:
4 Q. You will see this is the record of what
5 occurred at the meeting between the Navy BSC and its
6 staff and the Defense Base Closure and Realignment
7 Commission staff on May 29, 1991.
8 Do you see that?
9 A. Yes.
10 Q. And you are listed as having been present
11 attending on behalf of the Navy. Do you see that?
12 A. I was there.
13 Q. Now, if you will look, please, at the second
14 page of this record, which is Bates numbered 591, you
15 will see Paragraph No. 7 where it states "BSC wanted to
16 close Long Beach Naval Shipyard as well until the Chief
17 of Naval Operations said he needed that yard. It has
18 one of only two carrier dry docks on the West Coast."
19 Do you see that?
20 A. Paragraph 7. I was looking at the one that
21 was circled.
22 Q. Do you see that, 7, "BSC wanted to close Long

1 Beach Naval Shipyard as well, until the Chief of Naval
2 Operations said he needed that yard, it has one of only
3 two carrier dry docks on the West Coast."
4 Do you see that?
5 A. I see it.
6 Q. You were present at this meeting. Does that
7 refresh your recollection that the BSC itself told the
8 Defense Base Closure and Realignment Commission on May
9 29, 1991 that it was the CNO who had stated to the BSC
10 that he needed the Long Beach Naval Shipyard and because
11 of that they had decided not to close it?
12 A. The Chief of Naval Operations never addressed
13 the Base Structure Committee.
14 Q. Well, were you present when this statement was
15 made?
16 A. Yes, but this isn't a verbatim transcript of
17 the meeting. What was characterized there is that he
18 must have in some fashion made that information known to
19 the BSC. I don't doubt that it was in the minds of the
20 Base Structure Committee what CNO wanted to do, but I do
21 not remember any presentations to the BSC that entailed
22 somebody saying CNO wants this thing opened or closed.

1 Q. Well, when the statement was made at this
2 meeting on May 29, 1991 that it was the CNO who had said
3 he needed the Long Beach Naval Shipyard and because of
4 that the decision was made not to close it, did you jump
5 up and say: That's not my recollection of what
6 occurred?
7 A. No, no, I didn't and I don't remember it being
8 said that way.
9 Q. Well, do you remember Follin Armfield? Do you
10 know who she is?
11 A. Oh, yes.
12 Q. She took --
13 A. I was sitting next to her at one of these
14 meetings.
15 Q. She took minutes of these meetings. These are
16 her minutes, by the way.
17 A. Okay. I was wondering what they were.
18 Q. Right. And --
19 A. I don't think it is an accurate representation
20 of what was said.
21 Q. You don't?
22 A. Because I think if anyone said CNO said do

1 this or don't close this or don't close that, I believe
2 that would not have been an accurate representation of
3 what went on in the BSC.
4 Q. Let me ask you this question. Did you have an
5 understanding from your participation in the Navy BSC
6 deliberations that the CNO was against the closure of
7 the Long Beach Naval Shipyard?
8 A. No.
9 Q. Did you have an understanding that Admiral
10 Loftus was against the closure of the Long Beach Naval
11 Shipyard?
12 A. No.
13 MR. GUTMAN: Answer to your knowledge. You
14 don't know what is in the minds of other people but to
15 your knowledge.
16 THE WITNESS: No, I don't know that. And I
17 have no, in the meetings that I attended, there was
18 never a reason for me to believe that.
19 BY MR. PITTINSKY:
20 Q. You were not at all the meetings of the BSC?
21 A. I missed one or two of the BSC meetings.
22 Q. Let me show you Ms. Armfield's actual

1 handwritten notes from the meeting on May 29 which are
2 identified as Armfield 5. And in particular I am going
3 to ask you to look at page 3 of those notes.
4 Do you see about six lines from the bottom of
5 the third page of Armfield 5, the way it is produced it
6 has an Arabic II in the right-hand corner but it is the
7 third page of the document.
8 A. Okay.
9 Q. "Took LB off fleet because 'No. 1 CNO OP guy'
10 said he wanted LB so it went No. 5."
11 Do you see that?
12 A. I see it.
13 Q. Does that refresh your recollection that one
14 of the Navy representatives at the meeting told the Base
15 Closure Commission that it was the CNO who had
16 determined that Long Beach was necessary and it should
17 not be closed?
18 A. No. Because, No. 1, and I am going to be
19 honest with you, the No. 1 OP guy, whether it is CNO, it
20 could have been OP-03, the surface warfare guy. I don't
21 remember this. I don't doubt, I don't doubt that from
22 an operational point of view, it was clear to the BSC

1 that you needed a shipyard on the West Coast, but what I
2 am telling you is I don't know that CNO said it.
3 Q. All right. I can only ask you for your
4 knowledge and recollection.
5 A. Sure. It looks like this is an afterthought.
6 MR. GUTMAN: The document speaks for itself.
7 BY MR. PITTINSKY:
8 Q. Can we go back to Tzavaras 1, please?
9 A. My own document, yes.
10 Q. There you see in paragraph 2, it is stated by
11 Ms. MacKinnon --
12 MR. GUTMAN: Just a minute. We don't know if
13 this was stated by Ms. MacKinnon or not. You said
14 CP-431D was Ms. MacKinnon. The witness didn't testify
15 to that. We don't have any information as to who wrote
16 this. The document speaks for itself and you can answer
17 his questions accordingly.
18 BY MR. PITTINSKY:
19 Q. Here is Loftus 1. Do you see the designation
20 under Ms. MacKinnon's name?
21 A. Yes.
22 Q. What is it?

1 the NAVSEA preferred alternative of downsizing
2 Philadelphia vice closure. The OP-43 recommendation
3 remains closure of the shipyard (submission to the
4 fiscal year '91 BCRC) with retention of some key
5 facilities. OP-44 will present the CNO position on base
6 closures to BSC this week."
7 Do you see that?
8 A. Yes, I see it.
9 Q. Now, again, OP-44 is Admiral Loftus, correct?
10 A. No, it is Admiral Drennon.
11 Q. I am sorry, Admiral Drennon. You see Ms.
12 MacKinnon has written, Admiral Drennon will present the
13 CNO position on base closures to BSC this week; is that
14 correct?
15 A. Someone has written it. I don't know that Ms.
16 MacKinnon wrote it.
17 Q. Fair enough. Does this refresh your
18 recollection that Admiral Drennon was to present the CNO
19 position on base closures to the BSC some time in
20 February of 1991?
21 A. Yes, it does. What was presented is a range
22 of options that were acceptable to the CNO. The

1 description here is the CNO position. What was
2 presented to the Base Structure Committee was a range of
3 options that were acceptable to the CNO.
4 Q. And -- sorry.
5 A. Let me go on. What I see in this document is
6 that, in fact, the BSC was provided information and
7 alternatives as to whether Philadelphia should be closed
8 or opened because in all of the discussion we have had
9 so far, you centered really in my opinion around the
10 crucial issue that there were no decisions made, no
11 recommendations made that went forward to the Secretary
12 of the Navy other than what went to the BSC.
13 The BSC is the body within the Navy that made
14 the recommendations to the Secretary of the Navy, and
15 even according to wherever this came from, and it is
16 accurate, Admiral Claman provided the recommendation at
17 the time that NAVSEA was proposing.
18 Q. I understand that. But my question is in
19 light of what you said about the range of options that
20 Admiral Drennon presented to the BSC as the range of
21 options acceptable to the CNO, was closure of Long Beach
22 one of the options that was acceptable to the CNO?

1 MR. GUTMAN: To your knowledge.
2 THE WITNESS: To my knowledge it was.
3 BY MR. PITTINSKY:
4 Q. It was?
5 A. Yes.
6 Q. To your knowledge --
7 A. That's -- excuse me. Go ahead.
8 Q. Have you finished your answer?
9 A. There were many things on that list that were
10 acceptable to the CNO which were not ultimately closed.
11 Q. I understand that. But my only question is,
12 you said Admiral Drennon made a presentation to the Base
13 Structure Committee of the range of options that were
14 acceptable to the CNO. That was your testimony.
15 A. Yes.
16 Q. I am asking you whether the closure of Long
17 Beach was one of the options that was acceptable to the
18 CNO?
19 MR. GUTMAN: You can't speak to what the CNO
20 did or didn't know but to your knowledge --
21 THE WITNESS: Drennon presented it, yes,
22 absolutely. And, in fact, without -- I believe one of

1 Q. And if you look at the last page of Tzavaras
2 3, you see that Admiral Lang says to Admiral Hekman:
3 This information is required by noon Friday, March 23,
4 1991 in order to address the Base Structure Committee
5 recommendations to SECNAV. Do you see that?
6 A. Yes, I do.
7 Q. Does that refresh your recollection that
8 notwithstanding Admiral Hekman's dissent to the bitter
9 end, as you put it, that OP-04 was telling him to assume
10 that Philadelphia should be closed in its entirety?
11 A. No.
12 Q. No?
13 A. No. What this document is --
14 Q. Go ahead.
15 A. What this document is is a request for COBRA
16 information for cost data. Again, the staff is asking
17 NAVSEA to provide cost information on what it cost to
18 close Philadelphia and Long Beach because we knew that
19 the Base Structure Committee was considering the closure
20 of both.
21 We were required by their process to develop
22 COBRA data -- COBRA being the cost of base

1 realignment -- cost of base realignment activities or
2 something like that, to standard DOD model. They are
3 anticipating a dialogue going on. One of the factors
4 that has to be provided to the BSC is COBRA data before
5 they make their decisions.
6 This letter is showing me no decision has been
7 made yet but that we are asking for information to
8 support -- to provide information in support of a
9 dialogue that is about to go on in the Base Structure
10 Committee. In my opinion this does not say we are
11 closing Philadelphia or we are closing Long Beach. In
12 fact, I don't think we closed Long Beach.
13 Q. I was addressing myself to Philadelphia.
14 A. Well, I am just saying, I am characterizing
15 what this letter is. This is a request for information,
16 COBRA information, cost data information, that is to be
17 provided to the Base Structure Committee so that they
18 are able to make their decision.
19 Now, ultimately the decision was to close one
20 and not close the other but to say this is -- to imply
21 that Admiral Loftus or OP-04 has made a decision is
22 incorrect on this document.

OFFICIAL TRANSCRIPT
BEFORE THE

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SENATOR ARLEN SPECTER, et al.,

Plaintiffs,

v.

H. LAWRENCE GARRETT, III, et al.,

Defendants.

CIVIL ACTION NO.

91-CV-4322

Hon. Ronald J. Buckwalter

Washington, D.C.
Monday, September 23, 1991

Deposition of SAMUEL ALEXANDER YELLIN

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533

1 work for the Gilbane Building Company here, in their
2 Washington office. And I was in business development,
3 calling on Government agencies and clients in Washington
4 and in Virginia. And in 1986, I went back to Brown & Root
5 and continued in a similar job that I had been in before,
6 doing similar things. But my current title, at that time,
7 was Vice President for Brown & Root Development
8 Corporation, which was the Brown & Root subsidiary, that
9 was responsible for doing most of Brown & Root's
10 Government business, Federal Government business.
11 Q. And you held that position until you joined the
12 Courter Commission in May of 1991?
13 A. Yes.
14 Q. Is your position with the Courter Commission a
15 permanent one, or do you have a termination date when you
16 expect to return to Brown & Root?
17 A. I do not have a -- I'm not planning to return to
18 Brown & Root. My current employment with the Commission
19 expires the end of 1992.
20 Q. December 31?
21 A. Yes.
22 Q. Do you have -- have you had a title with tet

1 Courter Commission since you joined it on May 1, 1991?

2 A. I am the head of the Navy Team, Navy Review and

3 Analysis team.

4 Q. And to whom do you report?

5 A. Paul Hirsch.

6 Q. What is his title?

7 A. Paul Hirsch is the Director of Review and

8 Analysis.

9 Q. To whom does Mr. Hirsch report?

10 A. Paul reports to Nat Behrmann, who is the Chief

11 of Staff.

12 Q. When you commenced your employment with the

13 Courter Commission, on May 1, 1991, what did you do to

14 bring yourself up to speed, in terms of what your expected

15 duties and responsibilities were to be?

16 A. I reviewed the documents which had been received

17 from the Defense Department and the Navy in mid-April.

18 And I had extensive meetings with Paul Hirsch and other

19 people on the staff that provided direction to me about

20 what to do.

21 Q. Well, was the staff of the Courter Commission in

22 place when you joined the Courter Commission on May 1,

1 on that basis.

2 Captain Vernon did the training facilities;

3 Commander Hart did the naval-air facilities; John Patrick

4 did the naval stations; Mark Casterline did the RDT&E

5 facilities; and I did the shipyards.

6 Q. Did you have the sole responsibility for the

7 shipyards?

8 A. Yes, as far as counterpart to tet others, yes, I

9 was the lead analyst for shipyards.

10 Q. Did you ask any of the four assistants to assist

11 you in connection with your shipyard duties?

12 A. Occasionally there were things that needed to be

13 done, that I needed help with. Because I was also head of

14 the Navy team. And so primarily Mr. Patrick assisted me.

15 Q. How was it determined that you, for example,

16 would take on the shipyard assignment and Mr. Hart would

17 take air facilities?

18 A. Commander Hart is a pilot. And so that is why

19 he got the air facilities.

20 Q. And how was it determined you would get the

21 shipyards and Mr. Patrick would get the naval stations?

22 A. The naval station activity had done extensive

1 analysis related to the berthing capacity, which was going
2 to be very time consuming. And I assigned that to Mr.
3 Patrick.
4 The shipyards was basically when I was going
5 through there, I felt that that had the fewest number of
6 bases in tet category; and in part that is why, looking
7 back, that is probably why I took that.
8 Q. Because you had the overall responsibility for
9 the Navy team and so you wanted to give yourself the
10 responsibilities with the least amount of legwork and
11 detail because there were fewer bases?
12 A. There were fewer bases in that category.
13 Q. Well, as the person who had the shipyard analyst
14 responsibility, what did you do in the early days of your
15 employment with the Courter Commission to familiarize
16 yourself with what the Navy had done with respect to
17 shipyards?
18 MR. GUTMAN: Could you define early days?
19 MR. PITTINSKY: Yes, the first couple of weeks,
20 the first 2 weeks.
21 THE WITNESS: As I said, we received extensive
22 documentation from the Navy, in addition to the DOD

1 proposal. We had a detailed analysis binder from the Navy
2 that was divided up and had all the categories in it.
3 We also had four additional binders of back-up
4 data, which were data that was provided to the Base
5 Structure Committee for their review.
6 After each of us on the team reviewed those
7 sections of those books for our categories, we then
8 scheduled a meeting with Navy representatives to come and
9 talk to us and answer questions and provide additional
10 explanation of the information that we had been reviewing.
11 And so about 2 weeks -- maybe a little longer, 2 to 3
12 weeks -- after we initially started, we had a series of
13 meetings with representatives from OPNAV to discuss each
14 of the categories. And I did that for shipyards.
15 Q. This was after May 15th?
16 A. I don't know when the meeting was. I can't
17 recall. It was early in May.
18 Q. Early in May?
19 A. It was within the first two to three weeks.
20 Q. Well, did anyone tell you when you arrived at
21 the Commission on May 1, 1991, or shortly thereafter, that
22 there had been a hearing of the Courter Commission on

1 Answer the question if you can.

2 THE WITNESS: That was one of their procedures.

3 That was one of the first things I read was -- it was in

4 the procedure that was described in the Navy detailed

5 analysis, had some fairly lengthy memos that talked about

6 the different steps they went through to analyze the

7 bases, and that was clearly indicated in there as one of

8 the steps they went through in analyzing different

9 categories of bases.

10 BY MR. PITTINSKY:

11 Q. What was your understanding of the Step 5

12 procedure, how it worked?

13 A. That was a way to provide an element of military

14 judgment and using unique factors that may not have been

15 included in a standardized set of factors looking at all

16 bases. It was a way to include the judgment and analysis

17 of unique aspects of bases, or unique aspects of the

18 requirements for different bases that may not have been

19 taken into account when you look at a standard way of

20 grading or evaluating all bases.

21 MR. PITTINSKY: Would the reporter please mark

22 as Yellin 1 for identification a Base Structure Committee

1 MR. GUTMAN: Will you be tendering that exhibit
2 as Exhibit 2, then?
3 MR. PITTINSKY: In fact, I will request that you
4 provide us with another copy of this document which
5 presumably the Navy can put its hands on, and maybe if you
6 have the original, the original would be the best evidence
7 of what is written underneath the deletion there, and so I
8 would request for the record that the original be provided
9 rather than my copy. That way, there will be no dispute
10 about what is on the document.
11 BY MR. PITTINSKY:
12 Q. Well, sir, can you explain, since you were head
13 of the Navy staff, how it was that Long Beach, which had
14 three yellows and one green for the four military criteria
15 and apparently three reds for the nonmilitary criteria and
16 only one large carrier drydock was given a Step 5
17 exclusion whereas Philadelphia had two yellows and two
18 greens for the four military criteria, one yellow and two
19 reds for the nonmilitary criteria, and two large carrier
20 drydocks, and it was not excluded from the Step 5?
21 A. The requirement for the carrier drydocks was
22 based upon a division per fleet per coast. On the West

1 Coast there is a carrier drydock at Puget Sound, there is
2 a carrier drydock at Hunter's Point, and there is a
3 carrier drydock at Long Beach. There are no private
4 drydocks available on the West Coast. On the East Coast
5 there is two carrier drydocks at Philadelphia, one at the
6 Norfolk Naval Shipyard and one at Newport News which is a
7 private shipyard.
8 The Navy's stated requirement was that they
9 wanted to have at least two drydocks on each coast. The
10 drydock at Hunter's Point was going to be unavailable to
11 the Navy because the facility was completely closing as of
12 the end of this month. It was required to be -- the
13 property was required to be out-leased to the City of San
14 Francisco, so it would be no longer available, and so
15 therefore without that drydock then there were only two
16 drydocks on the West Coast and there were four drydocks on
17 the East Coast.
18 So the closure of Hunter's Point made the
19 drydock at Long Beach more important, so therefore in
20 order to keep two drydocks on the West Coast you needed to
21 keep the drydock at Long Beach, and you had the drydock at
22 Puget Sound for the two. Then on the East Coast you had

1 the drydock at Norfolk Naval Shipyard and also the one at
2 Newport News.
3 Q. Well, sir, isn't it a fact that you learned
4 through your work on the Courter Commission the Navy did
5 not like relying on private drydocks?
6 MR. GUTMAN: Objection. Lack of foundation.
7 You can answer, if you know.
8 THE WITNESS: I didn't know that.
9 BY MR. PITTINSKY:
10 Q. You never saw that statement made anywhere in
11 any Navy document?
12 A. Not that I can recall.
13 Q. The Navy didn't like relying on private
14 shipbuilders for their carrier work?
15 MR. GUTMAN: Same objection.
16 THE WITNESS: No.
17 BY MR. PITTINSKY:
18 Q. Now, sir, do you recall that between May 20 and
19 May 29, 1991, there were a series of meetings between the
20 Courter Commission and the Navy Base Structure Committee?
21 A. Yes.
22 MR. GUTMAN: When you refer to the Courter

1 installations equally, that any prior recommendations for
2 closure were to be disregarded?
3 MR. GUTMAN: Same objection, answer if you know.
4 THE WITNESS: My understanding was that they
5 were to be ignored, yes.
6 BY MR. PITTINSKY:
7 Q. In the course of your work at the Courter
8 Commission did you make any effort as the head of the
9 Naval team to determine whether the Navy had complied with
10 that obligation?
11 A. We analyzed in detail and we asked the Navy
12 significant questions and requested a lot of data from
13 them, to describe their process, that is the way we
14 reviewed the Navy's process. We did not -- in that
15 analysis, we did not find any evidence of use of previous
16 lists.
17 Q. Well, were you aware of the fact that after the
18 President signed into law the 1990 Base Closure Act, the
19 Secretary of the Navy had decided to mothball the
20 Philadelphia Naval Shipyard?
21 MR. GUTMAN: Objection, lack of foundation.
22 Answer if you know.

1 BY MR. PITTINSKY:

2 Q. That was never stated to you?

3 A. No. The Base Structure Committee made the

4 decision.

5 Q. That is your understanding?

6 A. That is my understanding.

7 Q. Now why were you having the meetings between May

8 20 and May 29, 1991 between the Navy Base Structure

9 Committee and the Courter Commission?

10 A. The documentation that was provided by the Navy

11 of their process to determine, the process we were just

12 talking about was inadequate, that had been provided to

13 us. So we met with the BSC to request to have them

14 describe their process to us in more detail and to provide

15 us documentation and explanation of what they did.

16 Q. And that entire process, that is your meetings

17 with them, the Navy Base Structure Committee and the

18 request for documentation and then the supplying of the

19 documentation by the Navy Base Structure Committee was

20 all outside the public hearings of the Courter Commission,

21 correct?

22 MR. GUTMAN: Objection, lack of foundation.

1 Answer if you know.

2 THE WITNESS: The meetings we had with the Base

3 Structure Committee were between the commission staff and

4 the Base Structure Committee. They were not in public

5 hearings.

6 BY MR. PITTINSKY:

7 Q. Right, and the information which was disclosed

8 to you, the commission and the staff at the meetings

9 between May 20 and May 29, 1991 was not then given to the

10 public for public comment at any public hearings of the

11 Courter Commission, correct?

12 A. The information was provided to the public

13 through the minutes that were taken and distributed.

14 Q. When was the last public hearing of the Courter

15 Commission?

16 A. I don't recall.

17 Q. Wasn't it May 24, 1991?

18 A. I don't know. I don't remember.

19 Q. Wasn't it sometime in May?

20 A. Yes, probably.

21 Q. Wasn't that the hearing in Philadelphia on May

22 24, 1991?

1 capable shipyards is performed on non-nuclear ships?
2 A. Yes, I am aware of that.
3 Q. All right. Did you or anyone else on the
4 Courter Commission staff ever ask the Navy why they didn't
5 close, for example, Portsmouth and send the non-nuclear
6 work to Philadelphia and the nuclear work to Charleston
7 and Norfolk?
8 A. The analysis was that during the 1990's, the
9 amount of work required on nuclear ships and nuclear
10 submarines filled to capacity sufficiently of the nuclear
11 shipyards so that none of those could be closed and still
12 do the work during that period of time.
13 Q. First of all, when you say the '90's, you are
14 not referring to the entire '90's, are you? You are
15 referring to the period of time from 1998 to 2000,
16 correct?
17 A. During the -- I don't think I ever really
18 analyzed it year-by-year. It was analyzed during a period
19 of time and the workload was sufficient during that period
20 of time.
21 Q. Sir, is it your testimony that you never knew
22 while you were performing your shipyard analysis for the

1 Courter Commission which period of time during the '90's,
2 this capacity would exist?
3 MR. GUTMAN: Which capacity are you referring
4 to?
5 BY MR. PITTINSKY:
6 Q. On nuclear ships, for the nuclear ships?
7 A. It was analyzed during the period, between the
8 current period and the year 2000, that was analyzed.
9 Q. Yes, but my question is, when during that period
10 of time, to the best of your knowledge was that situation,
11 with full capacity going to exist?
12 MR. GUTMAN: What situation are you referring
13 to?
14 MR. PITTINSKY: The situation the witness
15 referred to.
16 MR. GUTMAN: Do you understand the question?
17 THE WITNESS: Yes. I would have to go back and
18 review my records, but it was not just during the period
19 1998 to the year 2000.
20 BY MR. PITTINSKY:
21 Q. You are sure of that?
22 A. My recollection is that there was insufficient

1 excess capacity in the nuclear shipyards during a number
2 of years during the 1990's, so that it would not be viable
3 to close any of the nuclear shipyards.
4 Q. Well, did you or anyone else on your staff, the
5 people in charge of the Navy analysis, ask anyone from the
6 Navy to tell you how much of the work during the 1990's in
7 nuclear-capable shipyards was going to be performed on
8 non-nuclear ships?
9 A. I had no specific percentage.
10 Q. My question is, did you ask anyone at the Navy
11 to provide you with that information?
12 A. No, I did not.
13 Q. All right. Is that because it wasn't relevant
14 to your task?
15 A. The analysis was for the work on nuclear ships
16 and nuclear certified yards, that in itself was sufficient
17 to eliminate the opportunity to close the nuclear
18 shipyards.
19 Q. You mean it was not relevant to you to know that
20 in the years 1998 to 2000, half of the work at Portsmouth
21 would be on non-nuclear ships?
22 MR. GUTMAN: Objection, lack of foundation.

1 MR. GUTMAN: Objection. Lack of foundation.
2 You can answer if you can.
3 THE WITNESS: The information we got when we
4 ended up talking to the Base Structure Committee closely
5 coincides with this.
6 BY MR. PITTINSKY:
7 Q. With what I read into the record?
8 A. Yes. I would have to go back through and look
9 at it in more detail to see, but the gist of this is that
10 the BSC felt that they needed more information and
11 different information than they got from their working
12 group, and so they had interviews with people and that's
13 what helped them make their recommendations.
14 Q. Right, and indeed their own staff -- I shouldn't
15 say their own staff, but their own Base Structure
16 Committee members such as Mr. Nemfakos described that
17 process as being a subjective one, correct?
18 MR. GUTMAN: Objection. Lack of foundation.
19 THE WITNESS: What process?
20 MR. PITTINSKY: The process as related here by
21 the GAO and the process you learned later was the one that
22 the Navy followed.

1 THE WITNESS: I'm not sure. Using a single term
2 to describe it is not really adequate.
3 I mean, there was a process that went through
4 that some elements of it could be characterized as using
5 judgment and experience rather than a specific piece of
6 data or a number, and if that is the definition of
7 subjective, then I guess there were some subjective
8 elements to it in addition to others.
9 I mean, it was -- they went through a formal
10 process, and it was described to us later.
11 BY MR. PITTINSKY:
12 Q. Do you recall that Mr. Nemfakos described it as
13 being a subjective process? Do you recall that?
14 MR. GUTMAN: Objection. Lack of foundation.
15 THE WITNESS: I don't recall the use of a
16 specific term like that.
17 BY MR. PITTINSKY:
18 Q. You know who Mr. Nemfakos was, don't you?
19 A. Yes, I do.
20 Q. He was a member of the Navy Base Structure
21 Committee, is that right?
22 A. Yes.

1 Q. Do you agree that insofar as that question is
2 concerned, Mr. NemFakos said it was a subjective process?
3 A. That is what it says here.
4 Q. You have no reason to dispute this. This is the
5 official minutes of the meeting, correct?
6 A. It wasn't a verbatim transcript of it, but it
7 was my recollection that in describing the process for
8 various parts of BSC review, when they talked to the
9 commission staff they indicated that military judgment and
10 their experience entered in substantially into their
11 decisions, not strictly going by specific elements of
12 numerical data.
13 Q. And they described that as a subjective process?
14 A. And that was their definition of a subjective
15 process.
16 Q. Right, thank you.
17 A. Yes.
18 Q. All right. Now can we go back to the hearing on
19 May 17th, again on page 28, this is Yellin 5, the hearing
20 transcript on May 17, 1991, line 22. This is still Mr.
21 Connihan testifying: so the fundamental information, he
22 is referring to the Navy information, was flawed in the

1 meetings, correct?

2 A. At that time we could not verify it.

3 Q. They never gave you any minutes of any of the

4 meetings, correct?

5 A. There were no minutes of those meetings.

6 Q. Correct. So that you had to rely on the

7 reconstruction of what had occurred at those meeting which

8 the Navy gave to you, correct?

9 A. In part.

10 Q. What else was there?

11 A. We called our own meetings with the commission

12 staff and a number of those key people that they had

13 called in to meet with them.

14 Q. You had your own independent meetings with

15 members of the Navy who had been consulted by the Navy

16 Base Structure Committee?

17 A. Yes.

18 Q. Who were those people that you met with?

19 A. We met with Admiral Kihune.

20 Q. How do you spell that please?

21 A. K-i-h-u-n-e, and he is OP-03. He is responsible

22 for all the Naval Stations. We had a meeting with Admiral

1 Boorda, B-o-o-r-d-a, he is responsible for all of the Navy
2 training facilities. We had a meeting with Admiral
3 Dunleavey, D-u-n-l-e-a-v-e-y or y, I don't recall, and
4 Admiral Dunleavey is in charge of the Naval Air Stations.
5 Those are the three that we called in.
6 Q. Where is the admiral from the shipyards?
7 A. The admiral for the surface warfare, who is
8 responsible for all of the repair work on surface ships
9 and the admiral for Naval Air is responsible for all the
10 maintenance work on carriers.
11 Q. I know, but why didn't your staff meet with the
12 admiral who was in charge of shipyards, like you met with
13 the other admirals who were in charge of their --
14 A. We met with the operational staff people. We
15 didn't meet with head of Naval Air Systems. We didn't
16 meet with the head of Navy medical. We didn't meet with
17 any of the -- we met with the operational staff who the
18 BSC indicated to us were the key people that they talked
19 to, that had the most influence on their decisions.
20 Q. Well, who did the BSC staff tell you had the
21 most influence on their decisions with regard to
22 shipyards?

1 Q. Yes, why?

2 A. We decided that we wanted to focus on the people

3 that had responsibilities within the OPNAV organization

4 for the various bases and that is why we contacted those

5 three for interviews.

6 Q. Have you ever heard the name Admiral Loftus?

7 A. Yes.

8 Q. Do you know that he is from OP-04?

9 A. Yes.

10 Q. Have you ever heard the name Admiral Lang?

11 A. Yes.

12 Q. You know he is from OP-04?

13 A. OP-43 I think is his title.

14 Q. Right, but that is OP-04?

15 A. He works for Loftus.

16 Q. He reports to Loftus?

17 A. Right.

18 Q. Have you ever heard of Admiral Drennon?

19 A. Yes.

20 Q. Is he OP-04?

21 A. He is within that organization, yes.

22 Q. Now did you consult with Admiral Loftus or

1 Admiral Lang or Admiral Drennon in connection with your
2 review of the shipyard decisions by the Base Structure
3 Committee?
4 A. There were some discussions -- Admiral Loftus
5 was a member of the BSC and so he was involved in
6 discussions we had at the BSC meetings that involved all
7 the bases. I can't recall whether he talked in any
8 specifics about anything relating to the shipyards.
9 Admiral Lang, the only time I met Admiral Lang
10 was he attended the meeting in the Pentagon with Senator
11 Specter and Congressman Weldon, that Mr. Ruffin also
12 attended and he was one of the attendees there. That is
13 the only time that I have ever met him and obviously that
14 meeting was just a discussion of shipyards.
15 Admiral Drennon, was his staff was our primary
16 point of contact for all kinds of questions going back and
17 forth to the Navy in response to our questions or
18 questions from the communities. So we did have contact
19 with Admiral Drennon related to all of the bases at
20 various times.
21 Q. And you understood that Admiral Loftus reported
22 to Admiral Kelso, who is the Chief of Naval Operations,

1 had with -- well, when we made a request initially, I will
2 go back through the process. We made a request in these
3 first few weeks to the Navy. This was back to Mrs.
4 Schafer -- Ms. Schafer, to go back to her and say we would
5 like to have a meeting with key staff people on Naval air
6 stations, Naval stations, all the categories, working
7 level people to ask detailed questions. Captain Williams
8 and Mary McKinnon were the two people that she sent to
9 answer our questions on shipyards. So our follow-on
10 questions to them in meetings were to them.
11 Q. But I guess my question was was there a meeting
12 that you and your staff had with Mary McKinnon and Captain
13 Williams?
14 A. Yes.
15 Q. To ferret out information?
16 A. Yes.
17 Q. And when did that take place, approximately?
18 Was that in May or in June?
19 A. There was one meeting. The first meeting was in
20 probably mid-May and then there was another meeting in, I
21 think, the first week in June and then the second or third
22 week in June.

1 Do you see that reference?

2 A. Yes.

3 Q. Commissioner Ball asked, "With the input from

4 the staff?" and Mr. Conahan says, "Yes, with the input."

5 And then he says, "So the Committee found difficulty with

6 the input. Our report to you this morning is simply that

7 we weren't able -- we did not have visibility over the

8 deliberations of the Committee and therefore are not able

9 to say that we can or cannot support the recommendations

10 made by the Committee." Do you see that?

11 A. Yes.

12 Q. Do you recall that that was the GAO's position?

13 A. Yes. Now that I go back and read it I'm not

14 sure I understand all what he is saying here, but I assume

15 that since it is in the transcript he said that.

16 Q. Well, you had reached the same conclusion. That

17 is, that as of May 1991 you had no basis to either support

18 and justify or not support and not justify the Navy

19 recommendations.

20 A. The difference here is that this is starting to

21 talk about the VCNO or OPNAV working group -- the work

22 that was done during 1990 -- and at that time we had

1 not -- the Commission staff had not sufficiently reviewed
2 that to make any kind of statement about that.
3 Q. Well, did you ultimately review the OPNAV study?
4 A. Yes.
5 Q. What conclusion did you reach?
6 A. That the data was -- the data used for that was
7 defensible and usable.
8 Q. That is the conclusion you reached?
9 A. That the data that was used in that -- yes.
10 Q. Defensible and usable?
11 A. Yes.
12 Q. Isn't it a fact that the Navy BSC did not reach
13 the same conclusion with respect to that OPNAV?
14 A. No. They -- what I talked about was the data
15 that was in the OPNAV study.
16 Q. As contrasted to the rankings and the
17 conclusions?
18 A. No. I think some of the questions were on the
19 relative categories and information that was collected in
20 total, that it wasn't comprehensive enough.
21 Q. Isn't it a fact that the Navy BSC itself found
22 that the OPNAV study was flawed with respect to the

1 application of the military criteria to the naval bases?

2 MR. GUTMAN: Objection. Lack of foundation.

3 THE WITNESS: No, I wouldn't agree with that.

4 MR. PITTINSKY: This would be a good time to

5 break.

6 (Whereupon, at 1:00 p.m., the deposition in the

7 above-entitled matter was recessed, to reconvene later

8 this same day.)

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1 Q. "We did not have confidence in the data. That
2 is why we had people come in, those who owned the places
3 to explain the data to us. Start with the '88 report,
4 verify data this way. Let's see. Subjective. I'm not
5 sure exactly looking at VCNO data, it didn't make sense.
6 Staff couldn't answer a lot of the BSC's questions. The
7 BSC did not have time to recreate the study so we took our
8 own time to interview the operators to get to some kind of
9 truth and draw conclusions. The commission then asked did
10 you record the corrections, Schafer said in back-up books
11 which you have. Nemfakos said we never reran the OPNAV
12 input to show where it might be. If we did color coding
13 as opposed to the staff, VCNO study 'had some obvious
14 flaws.' And then I asked her, that is something Nemfakos
15 said? Her answer was yes. And since I have it in quote
16 marks, those were his words."
17 Do you see that?
18 A. Yes.
19 Q. Now do you recall that Mr. Nemfakos said that
20 the VCNO study had some obvious flaws?
21 A. I don't recall the exact words.
22 Q. Well, did he make that statement in substance?

1 A. And I can't recall whether it was Nemfakos or
2 somebody else from the BSC, but we had extensive
3 discussions about their feelings and use of the VCNO or
4 OPNAV study information and my recollection was that the
5 concern was as I said before, with the selection of the
6 type of data and the inclusions of certain pieces of data
7 for certain bases.
8 They felt, the BSC felt that while there was
9 accurate data provided by, including that data, in a set
10 of criteria that you used to grade a base, that if you
11 used criteria that is really not important to that base,
12 then you are going to inadvertently slant the grading for
13 that base. So their concern was primarily on the
14 selection of the types of things to consider for each type
15 of base rather than the data itself.
16 Q. But do you recall that in substance either Mr.
17 Nemfakos or somebody else from the Navy BSC at the May 20
18 meeting said that they recognized that the OPNAV or the
19 VCNO study had flaws?
20 A. My recollection was that they said that factors
21 were included that were not to the point of evaluating
22 different types of bases for closure or non-closure or

1 realignment. That's my recollection.

2 Q. In any proper way?

3 A. In a way that they felt should be used.

4 Q. Comfortable?

5 MR. GUTMAN: Let the witness answer, please.

6 MR. PITTINSKY: The answer is fine.

7 BY MR. PITTINSKY:

8 Q. Would you turn, please, to page 10 of

9 Ms. Armfield's notes, Armfield 1?

10 A. Yes.

11 Q. You know who Mr. Zangla is?

12 A. Yes.

13 Q. Who is he?

14 A. Vic Zangla was a GAO detailee at the Base

15 Closure Commission whose responsibility it was for

16 coordinating on-going support to the Commission by GAO and

17 to provide guidance and supervision to the other GAO

18 people who were assigned to work at the Commission.

19 Q. He was present at the meeting on May 20 with

20 you, correct?

21 A. Yes.

22 Q. Do you see on about the middle of page 10

1 THE WITNESS: The comments here relate to
2 internal controls and not to criteria.
3 BY MR. PITTINSKY:
4 Q. But you see, Ms. Schafer, according to
5 Ms. Armfield, stated "We didn't know. They didn't know.
6 We had set up criteria that didn't cut it." Do you see
7 that?
8 MR. GUTMAN: Perhaps it would help him to see
9 the transcript again.
10 MR. PITTINSKY: Line 15 through 18 of page 28.
11 THE WITNESS: My interpretation of that -- as I
12 say, I don't recall the specific words, and I go back to
13 my comment before concerning, the BSC stated concern with
14 the VCNO work was that they didn't agree with the
15 selection criteria that were used by the VCNO group when
16 they did their evaluations, that there were criteria in
17 there against which bases were graded for which the BSC
18 did not think those were important criteria, criteria that
19 went to their opinion, in their opinion and judgment to
20 factors that needed to be verified for those bases. But
21 it did not go to a discussion of the data, it went to the
22 criteria.

1 BY MR. PITTINSKY:

2 Q. What is the LMI Group?

3 A. LMI is Logistics Management Institute.

4 Q. Is that a part of the Navy?

5 A. No. That is a consulting company. It's -- I'm

6 not sure the exact term. It is one of the captive DOD

7 consulting companies. There are a number of them,

8 including -- Miter is one of the well-known ones.

9 Q. When you say it's a captive, what do you mean?

10 A. Well, they are -- they get all their business, I

11 guess, from DOD or work through DOD activities. They are

12 independent, but they are -- well, you're getting beyond

13 my knowledge of what -- you should call on them if you

14 want more details.

15 Q. Well, you note that Trevor Neve was present?

16 A. Yes.

17 Q. At this meeting on May 20?

18 A. Yes.

19 Q. Why was he present?

20 A. One of LMI's functions for the Commission -- and

21 they were very involved also with the '88 Commission.

22 They provided consulting services to us in the area of --

1 well, a wide variety of things. One of the areas in which
2 they were very involved was in helping the R&A staff with
3 issues of compliance review.
4 The overall compliance plan was worked out as an
5 expansion of a structure which they set up. Trevor Neve
6 had been a member of the '88 Commission and his
7 experiences in improving our process over the '88 was
8 important. He participated in a lot of our discussions.
9 Q. When you refer to a compliance plan, to what are
10 you referring? Are you referring to Yellin 4?
11 A. Yes.
12 Q. That was, in other words, worked out and
13 developed by Mr. Neve's group, LMI?
14 A. With the involvement of Paul Hersh and the R&A
15 staff.
16 Q. Do you have Nemfakos 8 in front of you?
17 A. Yes.
18 Q. If you would turn, please, to the page with the
19 Bates number 584, you will see that there was a meeting
20 between the Courter Commission staff and the Navy BSC on
21 May 22, 1991, correct?
22 A. Yes.

1 Q. Again you were present, along with Ms. Armfield?
2 A. Yes.
3 Q. Do you recall that during that meeting Rear
4 Admiral Oliver referred to the criteria utilized in the
5 OPNAV or VCNO study as nonsense?
6 MR. GUTMAN: Objection. Lack of foundation.
7 Answer if you can.
8 THE WITNESS: I don't recall that word being
9 used.
10 BY MR. PITTINSKY:
11 Q. You don't recall that being used?
12 MR. GUTMAN: Asked and answered.
13 MR. PITTINSKY: Sir?
14 THE WITNESS: There were statements made by a
15 number of the people that, as I have mentioned several
16 times before, that there were criteria that were included
17 by the VCNO group to evaluate certain bases that the BSC
18 did not think were appropriate, and that's the substance
19 of what I recall the BSC people talking about when they
20 were talking about criteria.
21 BY MR. PITTINSKY:
22 Q. In fact, the BSC disregarded the rankings based

1 on those OPNAV criteria for the shipyards and made their
2 own rankings for the shipyards, correct?
3 MR. GUTMAN: Objection. Lack of foundation.
4 Answer if you can.
5 THE WITNESS: They used the -- they came up with
6 their own grading. The BSC did not come up with the
7 rankings.
8 BY MR. PITTINSKY:
9 Q. Well, the BSC did not rely on the rankings and
10 color-coded evaluations that the OPNAV or VCNO study had
11 employed, correct?
12 MR. GUTMAN: Again, objection. Lack of
13 foundation.
14 THE WITNESS: There were statements that I
15 recall that the BSC made, or at least several people on
16 the BSC made, that the VCNO working group documents were
17 made available to them, explained to them, that they
18 considered them and then they went on from there adding
19 additional input from these meetings that they had with
20 other people in their own judgment to come up with a new
21 set of grades.
22 BY MR. PITTINSKY:

1 course.

2 BY MR. PITTINSKY:

3 Q. Would you look, please, at page 3 of

4 Ms. Armfield's notes, Armfield 3, which are her notes of

5 the May 22, 1991 meeting. Do you see that?

6 A. I'm on page 3.

7 Q. Do you see the reference to Admiral Oliver at

8 the top of the page?

9 A. Yes.

10 Q. Let me just show you Ms. Armfield's reading of

11 her own notes again, and you can look to see the prior

12 discussion if you want. I'm just going to point out what

13 she said Admiral Oliver said. The Commission said, at

14 page 46, line 9, "Let's walk down the plan, discuss,

15 Number 1, the mapping." Now, you understand what the

16 reference is to mapping, correct?

17 A. Yes.

18 Q. Why don't you tell us in your own words what

19 that reference is to mapping? What was the Commission

20 asking the Navy BSC to do with respect to mapping?

21 A. The 1988 Commission had a set of five criteria

22 that were used in determining their evaluation of bases.

1 Both the Army and the Navy set up teams in 1990 to study
2 their bases and to come up with using a set of criteria to
3 evaluate them, and both the Army and the Navy used the
4 five criteria for 1988 and because the criteria for the
5 '91 Commission was not available until, I guess it was
6 early 1991, that's all they had to work with.
7 So both services did evaluations and grading and
8 selection of data elements and other evaluation factors
9 and then when the criteria came out for this Commission
10 the Army, in order to make maximum use of that data,
11 worked on a mapping or a crosswalk, which is another term
12 that we used, which was a chart which took the five
13 criteria and indicated which of those five criteria were
14 used in part to determine the grade for the four military
15 value criteria that were used in the '91 Commission.
16 So the Army did this and it was a verifiable way
17 to look at that data and to compare that to the grading
18 that the Army came up with for the '91 Commission. We
19 presented that concept to the BSC and asked them if they
20 could do the same thing, if they could go and look back at
21 parts of the VCNO data which they said that they had used
22 as input to them that they had all been aware of and

1 indicate which of those were used in part to determine
2 grades for the four military value criteria that were used
3 in the '91 Commission.
4 Q. Right, so that -- and I'm not trying to
5 oversimplify this, but I think it is fair to say that the
6 mapping that is referenced is the word to connote the
7 drawing of a relationship between the '88 criteria that
8 had been used in 1990 and the new 1991 criteria that had
9 been established pursuant to the 1990 Base Closure Act,
10 correct?
11 A. Yes.
12 Q. Now, you see Admiral Oliver says in response to
13 this comment that we just read from the notes, "We will
14 write why we thought the criteria were nonsense." Do you
15 see that?
16 A. That is what it says here.
17 Q. Well, do you recall that Admiral Oliver said
18 that?
19 A. That is not my recollection of what the BSC --
20 as I said, I can't recall any individual from the BSC --
21 let me give me what my recollection was of what the BSC
22 did, because we went through this process with them and

1 what we asked them to do was to develop their own
2 crosswalk mapping, which of the five '88 criteria were
3 used in part to influence their grading on the '91.
4 Then what we asked them to do was to go back in
5 and look at where that crosswalk leads you and to explain
6 in detail when the BSC grade was different than the '88
7 criteria from the VCNO study, when those grades would
8 differ if you crosswalked those into their grade, and to
9 explain in detail why there was a difference.
10 Is that understandable?
11 Q. Explain in detail?
12 A. Yes.
13 Q. Do you think the Navy did that?
14 A. Yes.
15 Q. You do?
16 MR. GUTMAN: Asked and answered.
17 BY MR. PITTINSKY:
18 Q. Do you believe the Navy did that?
19 A. Yes.
20 Q. We'll see.
21 Would you look, please, at page 4 -- I'm sorry,
22 5 of Ms. Armfield's notes, Armfield 3, the May 22 notes.

1 suggested you said any of these things. You understand
2 that?
3 A. I understand.
4 Q. Page 50 in her deposition, "Navy: Maybe you'll
5 get more than you expected," and then she says, "Rose from
6 the Navy was forceful about this following point. Will
7 make a best faith effort to produce what you want. We
8 understand that we must be up-front now. No one accused
9 either of dishonesty. Impossible to document. You and
10 GAO are right about the lack of documentation after the
11 fact. What went on during the fact? You don't have a
12 contemporaneous documentation. We'll look at the
13 recommendations, get into the minds and memos and do our
14 best, but things will appear."
15 Do you remember that discussion, sir?
16 A. I remember that part of it, yes.
17 Q. You remember that the Navy said they had no
18 contemporaneous documentation for the decision-making, and
19 they would have to create it after the fact, correct?
20 A. Right. I also remember that fact was that the
21 other people on the BSC, the actual BSC members --
22 Mr. Rose is not a BSC member, by the way -- that they

1 didn't agree with that. They felt that they could come up
2 with a very adequate documentation of their decision
3 process which they did.
4 Q. But Mr. Rose's point was there was no
5 contemporaneous documentation, the documentation that had
6 been created while the process was underway, correct?
7 A. That's right.
8 Q. That was true?
9 A. There was no contemporaneous documentation.
10 Q. Your own compliance review establishes that,
11 correct?
12 A. We did not see any contemporaneous documentation
13 by the Navy.
14 Q. Would you turn, please, to the next-to-last page
15 of Armfield 3, Ms. Armfield's notes of the May 22 meeting?
16 All right, in particular about two-thirds of the
17 way down the page, next to "OL -- Oliver -- did good job,"
18 do you see that?
19 A. Yes.
20 Q. Let me just again read you Ms. Armfield's
21 rendition of her own notes, page 59, line 5. "Oliver did
22 good job on real estate data. That's all they did well,

1 Operations tasking. The BSC soon discovered that some
2 evaluation criteria were not useful to a differentiation
3 process in which installations could be evaluated and
4 subsequently identified for closure."
5 Do you see that?
6 A. Yes.
7 Q. Also, if you look at the last line in that
8 paragraph Admiral Loftus states, "In general, the BSC was
9 not satisfied with the total utility of the data in the
10 OPNAV study." Do you see that?
11 A. Yes.
12 Q. Does that refresh your recollection that the BSC
13 itself found that the OPNAV study was not useful?
14 MR. GUTMAN: Go ahead and read whatever part of
15 the document you need to in order to answer the question
16 truthfully.
17 THE WITNESS: That is not the way I would
18 characterize this paragraph.
19 BY MR. PITTINSKY:
20 Q. How would you characterize it?
21 MR. GUTMAN: The paragraph speaks for itself.
22 BY MR. PITTINSKY:

1 Q. What was your understanding of the paragraph
2 after you read it?
3 A. That's what I've tried to explain several times
4 before, that there were criteria used by the OPNAV VCNO
5 study group that were not in the BSC's opinion to the
6 point as far as determining which bases should be closed
7 or not closed, and therefore they decided to modify that
8 and that's what they're referring to in the last sentence
9 as the total utility. That in itself, by itself, it was
10 not adequate, but that does not lead me to believe, and it
11 wasn't my understanding in talking to them, that that
12 statement meant that they discarded it.
13 Q. Well, do you see in the second paragraph of this
14 page, the last sentence, the report states "The OPNAV
15 study contained inappropriate criteria and adjudged values
16 which the BSC knew from its own experience to be
17 incomplete or not entirely accurate?
18 A. That is exactly what I tried to just explain to
19 you. The previous sentence to that says that it could not
20 base this decision solely on the analysis.
21 Q. Because it contained inappropriate criteria?
22 A. That's right. That is what I have been stating

1 all along. But it did include appropriate criteria and it
2 did include appropriate data that they did use in their
3 analysis.
4 Q. Well, did the Navy BSC ever tell you or your
5 staff which criteria they deemed appropriate and which
6 criteria they deemed inappropriate?
7 A. Some are explained right here on this page.
8 Q. So the answer is yes?
9 A. Yes, they did.
10 Q. Would you look, please, at the sixth page of
11 Nemfakos 7, which is the mapping document? Do you have
12 that in front of you?
13 A. Yes.
14 Q. Am I correct this is the mapping document which
15 attempted to relate the 1988 and 1990 criteria to the 1991
16 criteria?
17 A. Yes. Excuse me, the 19888 and --
18 Q. I thought you told me the criteria that were
19 utilized in 1990 were first originated in 1988?
20 A. Right. The criteria used -- the main categories
21 of criteria used by the VCNO group corresponded to the
22 criteria from the 1988.

1 A. Yes.

2 Q. Do you see where it says number 10,

3 Miscellaneous Unique Considerations? And then it says

4 Nuclear Capability?

5 A. Right.

6 Q. And Mrs. McKinnon writes the projected workload

7 for the naval shipyards in 1998 to 2000 requires six

8 nuclear naval shipyards, do you see that?

9 A. Right.

10 Q. Is this the first time, reading this document

11 here today, that anyone told you that it was the projected

12 workload for the naval shipyards in the years 1998 through

13 2000, which required six nuclear naval shipyards?

14 A. I had indicated before that my analysis

15 indicated that there was a need for six nuclear shipyards

16 before that.

17 Q. You referred, that's right, to the entire

18 1990's, correct?

19 A. That's right. Not every year but during that

20 period of time, not just those last years.

21 Q. So now I'm asking whether in light of that

22 former testimony whether this is the first time that you

1 MR. GUTMAN: Same objection.

2 THE WITNESS: No.

3 BY MR. PITTINSKY:

4 Q. Do you know what an AOR is?

5 A. Yes.

6 Q. Does AOR stand for accumulated operating

7 results?

8 A. Yes.

9 Q. Did you discuss that subject with anybody?

10 A. Yes.

11 Q. And what did they tell you about that subject?

12 A. I got information from the community about

13 various financial measures related to all the shipyards.

14 Q. And when you say from the community, to whom are

15 you referring?

16 A. From the city of Philadelphia. There were

17 several groups that provided documentation to us that we

18 reviewed as we did for all communities.

19 Q. Well, did you ask Mr. Nemfakos, who was from the

20 Budget Office of the Navy, or Admiral Claman, who was from

21 NAVSEA, or Mrs. McKinnon, who was from OP-431 questions

22 about the profitability of the Philadelphia Naval

1 are charged for work. And there are various man/day rates
2 for various types of work at different bases and different
3 shipyards.
4 Q. And didn't you also learn that Philadelphia's
5 stabilized man/day rate was significantly lower than the
6 costs or man/day rates that would be charged at the
7 private shipyards? At Newport News, for example?
8 MR. GUTMAN: Could you define "significantly"?
9 That's a vague term.
10 MR. PITTINSKY: Yes. Over $100 less.
11 MR. GUTMAN: Do you understand the question,
12 given his response?
13 THE WITNESS: Yes. One of the problems in
14 comparing rates between public facilities, even those run
15 as a NIF organization and private ones, is that there are
16 differences in the way the actounting is done. I do not
17 recall looking or even asking for a rate at a shipyard
18 like Newport News, which is set up to do new construction,
19 much more than it is set up to do repair.
20 So the counterpart facilities would be more the
21 smaller, private shipyards in the Norfolk area, and the --
22 we did get information for private shipyards on the west

1 coast. In fact, the information from the shipyards on the
2 west coast was that their man/day rates were significantly
3 lower than the public shipyards, because of the
4 difficulties in trying to compare -- you've seen just a
5 rate, a rate between a public shipyard and a private
6 shipyard, or even between some of the public shipyards.
7 What I attempted to do in the analysis was to look at how
8 much actual work -- similar work costs between different
9 shipyards, rather than to look at just rates.
10 Q. And did you reach any conclusion with respect to
11 the difference between the cost of doing a maintenance job
12 at the Philadelphia Naval Shipyard and the cost of doing a
13 maintenance job at Newport News, a private shipyard?
14 A. Not at those two, no. There were additional --
15 there was an analysis done of the differences between
16 doing maintenance work at public and private shipyards on
17 the west coast, between Long Beach and the private
18 shipyards there, and those, that the work was fairly
19 comparable in cost, the final cost for the work to be
20 done.
21 Q. Why wasn't the same study done on the east
22 coast?

1 A. Well, one of the problems is that there is,
2 since most of the work being done in Philadelphia in
3 recent years has been the SLEP work, for which there is no
4 counterpart activity at public or private shipyards, that
5 there were an inadequate number of ships that were similar
6 in nature that were done in Philadelphia versus in other
7 facilities.
8 Q. Well --
9 A. I would have to say that I think Newport News
10 -- I would not consider that, if you are looking at rates
11 between the public and private shipyards, that it would
12 not be appropriate to compare Newport News with
13 Philadelphia. You would be better to compare Newport News
14 with a company like Metro Marine or Norfolk Ship Company.
15 Q. Well, did you ever discuss this subject with
16 Mrs. McKinnon?
17 A. I can't recall.
18 Q. Did you ever discuss the subject with Admiral
19 Claman?
20 A. No.
21 Q. Well, did anyone from NAVSEA ever tell you that
22 they had done a study of the rates at which work could be

1 A. Yes.

2 Q. -- is $505?

3 A. Yes.

4 Q. Newport News, a private shipyard, is $40 or $50.

5 A. Right.

6 Q. Portsmouth, which is a naval shipyard, is $391.

7 A. Right. Those are not, when you are talking

8 about repair work, those are not comparable facilities.

9 As I indicated before, you need to, if you're going to

10 look at comparing rates, you need to look at comparing

11 rates between shipyards that are in the private sector,

12 that are doing the work that could go to Philadelphia, and

13 therefore you're looking at the ones that I just

14 mentioned. Look at those rates.

15 Q. Which one do you think we should do?

16 A. Metro Marine -- Metro Machine or Shipco.

17 Q. Now are you aware that NAVSEA regarded the small

18 private shipyards as totally unreliable when it came to

19 performing the kind of work that goes to Philadelphia?

20 Were you aware of that fact?

21 MR. GUTMAN: Objection. Lack of foundation.

22 THE WITNESS: I am not aware of anything like

1 A. Yes.

2 Q. And did you in fact author Yellin 6?

3 A. Yes.

4 Q. And was it your intent to summarize your

5 telephone conversation with Admiral Hekman and yourself on

6 June 18, 1991?

7 A. Yes.

8 Q. And was this the second of your two telephone

9 conversations with Admiral Hekman?

10 A. Yes.

11 Q. And I want you to take your time to read the

12 entire document because my question is: Is this a true

13 and accurate record of what Admiral Hekman said to you

14 during the telephone conversation on June 18, 1991?

15 A. At the time of the phone conversation, I did not

16 take any notes or do a contemporaneous record of it. The

17 reason was that I had seen the memos from Admiral Hekman,

18 and he didn't really expand very much on those topics.

19 This was written about three -- this was written, I think

20 it was, on the second week, or at the beginning of the

21 second week, or the end of the first week of July.

22 And the reason I wrote it was that the counsel

1 for the Commission came to me and asked me about the
2 conversation and asked me if I had done a memo to the file
3 and I said, no. We had all the information about his
4 recommendations, already well documented, and he said --
5 he asked me to prepare, and he said it was probably best
6 to have it for the record documented. So, knowing that
7 this was written based upon my recollection 3 weeks or 4
8 weeks after the conversation, this is my best recollection
9 of the conversation.
10 Q. And with the qualification that it was prepared
11 3 or 4 weeks after the conversation occurred, and you say
12 without the benefit of any notes.
13 A. Right.
14 Q. Nevertheless, subject to those qualifications,
15 this was your best recollection of what occurred?
16 A. Yes.
17 Q. And you believed at the time you prepared this
18 document that it was, again subject to those
19 qualifications, a true and accurate summary of what
20 Admiral Hekman said to you during the June 18, 1991,
21 telephone conversation?
22 A. Yes.

1 THE WITNESS: I am not sure how to answer that.
2 I assume that --
3 MR. GUTMAN: Don't assume anything.
4 THE WITNESS: I don't know.
5 BY MR. PITTINSKY:
6 Q. Didn't you make a judgment about that when you
7 were asked to make recommendations? As the Commission was
8 asked to make a recommendation as to whether they should
9 adopt the Navy's recommendation?
10 A. One of the things we looked at, and we did study
11 very carefully the issue of having an emergent drydock for
12 carriers on either coast, and the model that we had to
13 study was Hunter's Point. Hunter's Point was a shipyard
14 that was closed many years ago, I think it was -- I am not
15 sure if it was in the early 1980's or the 1970's, but it
16 has not been an active Navy shipyard for a number of
17 years. And so there are no workers there qualified and
18 working on carrier overhaul work, or work on carriers, or
19 any Navy ships for that matter. But the Navy maintained
20 that drydock, the carrier-capable drydock there, in
21 mothball status for many years.
22 And in fact, in the mid-1980's they did have a

1 need in San Francisco area for a drydocking capability for
2 a carrier, so what they did was they re-opened the
3 drydock, brought in crews from either Puget Sound or Mare
4 Island, but they brought in crews from other naval
5 shipyards, did the emergency -- what needed to be done in
6 that drydock over a period of time -- I don't know how
7 long that was, and then they took the carrier out and put
8 the drydock back in mothball status.
9 And so it was our understanding that based on
10 that experience and that documentation of the process that
11 a similar process for Philadelphia would allow them to
12 have the drydocks in Philadelphia available to them for
13 emergent use.
14 And in fact their proposal was exactly that, to
15 provide sufficient personnel to maintain the drydocks, and
16 that if the drydock at Norfolk and/or the one at Newport
17 News were not available, and it was an absolute
18 requirement that they could then bring the ship into
19 Philadelphia, drydock it, repair it with crews from other
20 shipyards, and that was an adequate insurance policy for
21 them.
22 Q. Well, let's go to the west coast for a moment.

1 Q. And in the case of Newport News, you say there's
2 one of the two which can accommodate large carrier work,
3 correct?
4 A. Yes. The other one is used just for
5 construction.
6 Q. And you also agree that -- when I say you agree,
7 I mean the Navy told you this, it's not like you invented
8 any of this, but the Navy told you that. There was no
9 assurance that the large carrier drydock in Newport News
10 would be available, correct?
11 MR. GUTMAN: Asked and answered.
12 THE WITNESS: Yes.
13 BY MR. PITTINSKY:
14 Q. And so my question is, where on the east coast
15 are you going to have the certain availability of the two
16 large carrier drydocks if Philadelphia is closed?
17 A. I don't understand you.
18 Q. Well, the Navy told you that they must have two
19 large carrier drydocks on the west coast?
20 A. Right.
21 Q. That is why, again, if you look at Yellin 1,
22 Long Beach was excluded under step 5, correct?

1 A. Yes.

2 Q. They didn't say, on the west coast, we can

3 mothball Long Beach, and then if there is an emergency, we

4 can reopen it and fly in people from Puget Sound at Long

5 Beach, right?

6 A. That's right.

7 Q. They told you on the west coast you must have

8 Long Beach so that you have two carrier drydocks available

9 on the west coast, is that correct?

10 A. That is correct.

11 Q. Now on the east coast, you have one at Norfolk,

12 correct?

13 A. Yes.

14 Q. And if Philadelphia is closed by your testimony,

15 the only other large carrier drydock that is possibly

16 available is at Newport News, is that correct?

17 MR. GUTMAN: That doesn't accurately reflect

18 his testimony. Go ahead and answer.

19 THE WITNESS: What I said was the other

20 alternative on the aast coast would be to reopen one of

21 the mothball drydocks at Philadelphia.

22 BY MR. PITTINSKY:

1 Q. I understand that. But in terms of without
2 mothballing, the only two that would be left after
3 Philadelphia was closed would be the one at Norfolk and
4 the one at Newport News. Correct?
5 A. Yes. But now, the added complication on the
6 west coast is that the basis of the lease with the City of
7 Long Beach for the shipyard at Long Beach says that if it
8 is not actively being used by the Navy, the property
9 reverts to the city. So the review of that by DOD and
10 Navy counsel said that if the shipyard is not maintained
11 as an active shipyard, the property reverts to the city of
12 Long Beach and so mothballing of the drydock at Long Beach
13 is not an option. But that is an added complication for
14 the west coast that I wanted to bring up.
15 Q. I understand that, but again, just so the record
16 is clear, the Navy's decision was that they needed two
17 available large carrier drydocks on the west coast,
18 correct?
19 A. Yes.
20 Q. On the east coast you have one at Norfolk,
21 correct?
22 MR. GUTMAN: These questions have been asked and

1 answered countless times.

2 MR. PITTINSKY: This is cross-examination, Mr.

3 Gutman.

4 MR. GUTMAN: But these questions have been asked

5 and answered several times.

6 BY MR. PITTINSKY:

7 Q. Correct?

8 A. Yes.

9 Q. And the only other one if Philadelphia's closed

10 is Newport News, correct?

11 A. What is your question again?

12 Q. The only other drydock -- other being in

13 addition to Norfolk, if large carrier drydock -- if

14 Philadelphia is closed, would be Newport News?

15 A. No. Philadelphia.

16 Q. I said if Philadelphia is closed.

17 A. Philadelphia is being closed, and mothballed,

18 and it's available.

19 Q. Without being reconstituted? Without being

20 reconstituted?

21 A. It doesn't have to be reconstituted.

22 Q. It doesn't?

1 public shipyards and do all of this mission in the private
2 sector, and that is what that sentence says.
3 Q. Did not you understand that when he referred to
4 the capability that he was saying that the private sector
5 was incapable of performing these missions?
6 MR. GUTMAN: Asked and answered.
7 THE WITNESS: All of them. You are
8 misinterpreting that sentence as far as I read it. This
9 mission -- these missions -- are inclusive and therefore
10 the capability or capacity of the private sector to do
11 these missions, which is an inclusive statement which
12 includes all three in total, would not be capable in the
13 private sector. That is clearly the case.
14 BY MR. PITTINSKY:
15 Q. That is the way you read it?
16 A. Yes.
17 Q. Would you turn the page, please, to Bates number
18 594. The last sentence before the heading, results of the
19 capacity analysis: While the Navy fleet in general is
20 downsizing by 19 percent, the types of ships worked by the
21 naval shipyards is downsizing only 1 percent, and in some
22 cases, it is increasing (large amphibious and Aegis

1 ships), thus the need for the facilities to accomplish
2 this work has not diminished. Do you see that?
3 A. Yes.
4 Q. Did you understand that the work on large
5 amphibious and Aegis ships was performed in part at
6 Philadelphia?
7 A. Large amphibious -- my understanding that no
8 Aegis ships have been worked on in Philadelphia. I had,
9 when I read that statement there -- I think there is some
10 error in the logic that -- comparing the types of ships to
11 workload, to me is not a direct correlation.
12 Q. Would you turn please to the page Bates numbered
13 602?
14 A. Yes.
15 Q. There is the title, Strategic and Operational
16 Consequences. Now do you see the second paragraph under
17 that title?
18 A. Yes.
19 Q. It reads as follows: Closure of Philadelphia
20 Naval Shipyard without retention of the large carrier-
21 capable drydocks creates a shortfall in drydock capability
22 for emergent dockings of aircraft carriers. The only

1 carrier-capable drydock available on the east coast, under
2 Navy control, is at Norfolk Naval Shipyard, and will be
3 fully utilized. Without the drydocks available at
4 Philadelphia, the only other dock capable of taking an
5 emergent carrier docking is at Newport News Shipbuilding.
6 Exhibit C-7 illustrates this situation
7 graphically. This dock is privately owned and its docking
8 schedule is not controlled by the Navy. The cost to have
9 Newport News Shipbuilding provide a dedicated dock under
10 contract is considered prohibitive. The only alternatives
11 are to use the Newport News Shipbuilding Dock, if
12 available, or to physically remove a ship already in dock
13 at Norfolk Naval shipyard, if possible.
14 The closure -- referring to Philadelphia --
15 departs from a longstanding Navy strategic and operational
16 requirement which provided for two naval shipyards on each
17 coast capable of docking and repairing aircraft carriers.
18 Do you see that?
19 A. Yes.
20 Q. Now did you agree with what Admiral Claman said
21 here?
22 A. Yes. Unless you have the drydocks at

1 Philadelphia mothballed and available for emergent use,
2 you may have a problem. But that, having them mothballed
3 and available for use as they've done on the west coast
4 successfully, took care of that problem.
5 Q. Yes, but Admiral Claman wasn't recommending
6 mothballing Philadelphia, was he? In this document,
7 Claman 1?
8 MR. GUTMAN: If you need to read the entire
9 document to answer that question, take as much time as you
10 want.
11 MR. PITTINSKY: Just read the first page.
12 MR. GUTMAN: He can read as much as he wants.
13 THE WITNESS: The document here, right up above
14 it here on page 10 at the top, well in fact, had page 9 at
15 the bottom -- on page 601, I only had a half a page.
16 MR. PITTINSKY: So do I.
17 MR. GUTMAN: It's difficult to read from it
18 because half the page is gone. Do you have a copy of the
19 full page?
20 MR. PITTINSKY: It's a repeat of what's on the
21 cover letter from Admiral Claman to Admiral Lang.
22 MR. GUTMAN: I don't know if it is or not.

1 MR. PITTINSKY: Well, you can check and see.

2 THE WITNESS: This option 1, on page 9, is the

3 proposal to close and mothball Philadelphia. Option 2 is

4 Admiral Hekman's proposal to downsize to an SRF at 1200

5 people. And the statement at the top of page 10 says that

6 the Navy has chosen option 1.

7 MR. PITTINSKY: That's right, the Secretary of

8 the Navy, right?

9 THE WITNESS: Right.

10 BY MR. PITTINSKY:

11 Q. I'm asking you what Admiral Claman was

12 recommending, and if you look -- all I'm asking you to do

13 is look at the first page of Claman 1, the cover letter,

14 and see if that helps you.

15 MR. GUTMAN: The document speaks for itself.

16 THE WITNESS: In Claman's fourth paragraph here,

17 it says that they recommend option 2.

18 BY MR. PITTINSKY:

19 Q. He says, "We recommend option 2 be used for

20 Philadelphia Naval Shipyard, that is, that Philadelphia

21 Naval Shipyard be drawn down to a small size activity in

22 the mid-1990's, as workload declines, in order to provide

1 a Government-controlled CV drydock site and ship repair
2 capability for the Northeast," right?
3 A. That's right.
4 Q. Did you take that into consideration in your
5 work?
6 A. Yes.
7 Q. How?
8 A. We analyzed the option, the other option, to see
9 whether that was a viable option, about having the drydock
10 in mothball status. And that did take care of the
11 emergent needs which had clearly documented and shown to
12 work on the west coast with Hunter's Point.
13 Q. YEs, but on the west coast, by virtue of the
14 Navy decision, you have two large carrier drydocks fully
15 and freely available for large carrier work, correct?
16 Without Hunter's Point?
17 MR. GUTMAN: Asked and answered.
18 THE WITNESS: Yes. But the key thing that, in
19 our analysis, was that when we looked at what was the
20 potential for mothballing a facility and having it to be a
21 viable use for emergent use, I asked the Navy, and we went
22 back through and documented the uses and the needs for

1 emergent capability, and Hunter's Point was a direct
2 example of the same capability that would be available if
3 Philadelphia was closed and mothballed.
4 BY MR. PITTINSKY:
5 Q. So you thought it was sufficient on the east
6 coast to have available the one large carrier drydock at
7 Norfolk, and for emergent use, the mothballed large
8 carrier drydock in Philadelphia, correct?
9 A. In addition to the drydock in Newport News.
10 Q. But you didn't know whether that would be
11 available.
12 A. Maybe the drydocks at Long Beach and Puget Sound
13 might be scheduled for something else also.
14 MR. GUTMAN: Could you let him finish his answer
15 before chiming in, please? Is this a good time for a 2-
16 minute break, please?
17 MR. PITTINSKY: I was going to say we should
18 break at 5:00, because I have to make a call.
19 (Recess.)
20 MR. PITTINSKY: Would the reporter please mark
21 as Yellin 7 for identification a memorandum for the Base
22 Closure Commission dated June 14, 1991?

1 that was based on the experience and judgment of the
2 members of the committee. A written summary of the BSC's
3 decision reasons will be provided shortly to the
4 Commission." Do you see that?
5 A. Yes.
6 Q. Now, again, just so the record's clear. The
7 Navy's detailed analysis document is a document which was
8 provided to the Courter Commission staff prior to the time
9 that you arrived at the Commission, correct?
10 A. Yes, it was provided along with the DoD
11 recommended report, which was the second week in April.
12 Q. Right, and therefore that was approximately one
13 month before your Yellin 3 general compliance review
14 document?
15 A. Yes.
16 Q. Then they refer to "copies of data received and
17 considered by the BSC have been previously provided to the
18 Commission." Do you see that?
19 A. Yes.
20 Q. That was also provided to the Commission staff
21 in April, correct?
22 A. Yes, at the same time.

1 Q. Approximately 1 month before your Yellin 3,
2 which is your compliance review document.
3 A. Yes.
4 Q. Now, here they say, "The BSC assigned grades
5 based on a consensus that was based on the experience and
6 judgment of the members of the BSC." Do you see that?
7 A. Yes.
8 Q. Now, did you understand, prior to your receipt
9 of Yellin 7, that the BSC had assigned grades to the naval
10 facilities based on the experience and judgment on the
11 members of the committee?
12 A. That's exactly what they told us.
13 Q. How would one go about establishing an internal
14 control plan to verify this experience and judgment that
15 was exercised by the members of the BSC?
16 MR. GUTMAN: Objection. It calls for
17 speculation. Answer as best you can.
18 THE WITNESS: The --
19 BY MR. PITTINSKY:
20 Q. He objected to the question. I will rephrase
21 the question. How, to your knowledge, how did the Navy,
22 the Navy BSC, go about establishing an internal control

1 plan to verify the experience and judgment of the members
2 of the BSC in assigning grades to the naval facilities?
3 A. The reason why, my understanding of the reason
4 why the requirement for the internal controls were
5 instituted in the legislation, was that during the 1988
6 Commission, when there was review done after the results
7 of the Commission had been published, there was evidence
8 that some of the data that appeared to be used in the
9 decision-making process was faulty.
10 The process that the BSC went through used a
11 combination of the experience and judgment of the members
12 of the committee, as well as input in all these back-up
13 data that was presented by the different organizations and
14 by the VCNO working group.
15 That data was in part used, data from
16 established data bases, that the Navy has operating real
17 property maintenance and data primarily, and that's a data
18 base that has its own internal review and a process where
19 it's updated and checked. And so, when that data was
20 used, then that implied that it was already being checked
21 and accurate.
22 But when you got down to the elements of

1 strictly experience and judgment used in that, you cannot
2 do an internal control on that. But you can on elements
3 of data that went into them as data for them to look at,
4 and which they were aware of at the time they made their
5 judgments.
6 Q. If I understand what you just said, I believe it
7 was your testimony that so far as your recollection is
8 concerned, the Navy did not have an internal control plan
9 to verify the experience and judgment of the members of
10 the BSC as it was applied to assigning grades to naval
11 facilities. Correct?
12 A. Some of the data that was presented to them --
13 Q. I'm talking about the experience and judgment,
14 not the data that was presented. I'm talking about the
15 experience and judgment --
16 MR. GUTMAN: Let him answer the question.
17 MR. PITTINSKY: I would like him to answer the
18 question. I heard him talk about the data; that is not
19 question. I would like him to address the question. The
20 question has to do with the experience and judgment.
21 MR. GUTMAN: We're asking you to just let him
22 answer the question.

1 MR. PITTINSKY: I'm asking him to answer the
2 question.
3 THE WITNESS: I understand the question, and I'm
4 trying to explain what my interpretation of this sentence
5 means. The sentence does not say, as you're implying,
6 that experience and judgment of the members of the
7 committee was the only thing on which they based the
8 grading. There was clearly, and it's stated right here in
9 the paragraph, "All data received and considered by the
10 BSC was provided to us."
11 That data was primarily from established data
12 base that the Navy uses and maintains on a regular basis,
13 and therefore was not newly created for the Base Structure
14 Committee, and therefore the Navy did not feel that needed
15 a separate, internal control system.
16 Clearly, if you are using as part of your
17 element of grading, and that is what this says here, you
18 can obviously not go to someone's experience and judgment
19 and audit that. But that is clearly not what is stated
20 here as being the only source of the grading process.
21 BY MR. PITTINSKY:
22 Q. Sir, did you know that the GAO considered this

1 back-up documentation that you've been discussing and is
2 referenced here to be poorly organized? Did you know
3 that?
4 MR. GUTMAN: Objection. Lack of foundation.
5 THE WITNESS: I am not personally aware of that.
6 BY MR. PITTINSKY:
7 Q. Did you personally review the boxes of documents
8 submitted by the Navy?
9 A. Much of it, yes.
10 Q. And did you find it to be well organized?
11 A. If it wasn't in some cases, we reorganized it to
12 be useful to us.
13 Q. Did you know that the GAO thought that the back-
14 up data supplied by the BSC was of no use, and that it
15 would be like studying the Vietnam War to learn about the
16 Persian Gulf?
17 MR. GUTMAN: Objection. Lack of foundation.
18 BY MR. PITTINSKY:
19 Q. Did you know the GAO thought that?
20 A. I didn't know they thought that. I don't agree
21 with that.
22 Q. You found it useful?

1 A. In fact, we had, we used GAO to go out on our
2 own independent data-verification efforts. We had GAO,
3 the old representatives, visit 29 Navy facilities to
4 independently obtain data which LMI, working for the
5 Commission, compared to the data used by the BSC.
6 Q. You used the GAO to go to 29 naval facilities?
7 A. Yes.
8 Q. Did that include the eight naval shipyards?
9 A. Two of the eight naval shipyards.
10 Q. Only two?
11 A. That's right.
12 Q. I'll bet they were Long Beach and Philadelphia.
13 A. Oh, no, Charleston and Philadelphia. We chose,
14 in fact, I didn't even choose the 29 facilities to go to.
15 We had LMI, which had the experts in statistical
16 analysis go through and do a sampling of all the
17 facilities, and they were directed to both pick selected
18 bases that were both on the list, and not on the list, and
19 pick various data elements that were used in the VCNO
20 study in order to analyze this.
21 So this was done completely independently from
22 even me, done by a group that specializes in and are

1 experts in statistical analysis of data. We did an
2 independent review. We could not go to every base,
3 because of time and money limitations; we went to several.
4 We did what LMI's experts considered a statistically
5 significant sampling of data, which is also done by the
6 other services, other service teams.
7 And that was done specifically to go back and
8 review the data, and to give us some feedback and
9 information on the accuracy of that data that was used by
10 the VCNO group, which was then presented and used as a
11 basis and one of the factors in the BSC's evaluation.
12 Q. So LMI chose the two shipyards that would be
13 reviewed, is that your testimony?
14 A. Yes.
15 Q. Without any consultation with your group?
16 A. That's right.
17 Q. Without any consultation with anybody? How
18 about op 44, op 43? Do you know if they consulted with
19 them?
20 A. I don't have any idea. I don't think they did,
21 because they were working directly for us. They were in
22 an office across the hall from me. I went in and asked

1 them to do this, because they were the experts in this.
2 I said, "We have all this data to review, all
3 this information to work with; I want you to pick a
4 selection of bases, a selection of data." I think the
5 actual numbers of data elements totalled about 600. And
6 they did their review based on the input from GAO.
7 And so all the data in the field were based on
8 visits from GAO field offices to bases at our request.
9 Q. Well, when did you learn that LMI had selected
10 Charleston and Philadelphia?
11 A. After they did it.
12 Q. All right, well, when was that?
13 A. That was back in, I can't remember the exact
14 date. It was probably late May.
15 Q. Rather than pick a date, let's take the time
16 frame of the meetings between the Navy BSC and the Courter
17 Commission staff. Was it before, during or after that?
18 A. After.
19 Q. After that. So it would probably be early June,
20 then.
21 A. It was done around the same time. As I
22 mentioned before, LMI was very involved with us as one of

1 their main tasks in helping us with compliance reviews.
2 And so we had them involved in all aspects of these
3 compliance reviews. And this was an element of that.
4 Q. I understand that. But you learned about the
5 fact that LMI had selected Charleston and Philadelphia in
6 early June of 1991, correct?
7 A. Around that period of time. It is my
8 recollection of it, I think, yes.
9 Q. Now, when you learned that, did you say, gee
10 fellows, I think you should have gone to Long Beach also?
11 A. No, because as I said, the direction to LMI was
12 to choose a selection of each category. We had many
13 categories of bases that we were looking at. We only had
14 a certain amount of time and a certain amount of
15 capability in the field to demand this very rapid turn-
16 around from GAO.
17 So they were directed to pick one base that was
18 under consideration, and one base that was not under
19 consideration. And as I think, the Long Beach was placed
20 on the list for consideration by the Commission at the end
21 of May. So that period of time, probably Long Beach would
22 not have qualified as one of the shipyards that was not

1 under consideration.

2 Q. Long Beach was placed under consideration for

3 closure by the Courter Commission?

4 A. Yes.

5 Q. When?

6 A. The, either the 30th of May or the 1st of June,

7 something right in that period of time.

8 Q. And ultimately, what did the Courter Commission

9 decide?

10 MR. GUTMAN: It's a matter of public record.

11 THE WITNESS: The Commission voted on the 30th

12 of June not to close the Long Beach shipyard.

13 BY MR. PITTINSKY:

14 Q. And on what did it base its decision?

15 A. You will have to ask the commissioners.

16 Q. Weren't you there?

17 A. Yes.

18 Q. Well, was there discussion?

19 A. Yes. It's difficult for me to go back and try

20 to summarize that, because there was a very lengthy

21 discussion.

22 Q. About Long Beach?

1 A. Long Beach and all the bases.

2 Q. I'm just talking about Long Beach now.

3 A. I can't recall how many time was actually spent

4 in doing that. The factors that I think were in Long

5 Beach's favor for not being closed related to the subject

6 we've already talked about, with the drydock.

7 Another factor was the lack of, a relative lack

8 of private shipyard capability on the west coast in

9 relationship to the east coast; the nearness of Long Beach

10 to San Diego, which is where the large bulk of the Pacific

11 fleet is homeported; the fact that Long Beach is a

12 relatively small shipyard and has already been

13 substantially downsized; Long Beach is an active

14 participant in the public-private competition on the west

15 coast.

16 One of the things I brought up that Admiral

17 Hekman passed on to me was that he considered Long Beach

18 to be the shipyard with the most innovative management

19 practices, and that had very effectively contributed to

20 their excellent performance on work. Those are some of

21 the factors that were brought up in their favor.

22 There are a number of things that were brought

1 up negatively about Long Beach related to, that there was
2 some private shipyards on the west coast that had
3 capability that they felt they would have a better chance
4 of financial survival without having to compete against
5 Long Beach.
6 I could go back over and go through it in even
7 more detail, the analysis. The question you asked me,
8 though, why was it voted to stay open, that wasn't my
9 decision. That's a decision of the commissioners; they're
10 the ones that vote and they're the ones that decide, and
11 they're the ones that balance out the different factors.
12 I can't even remember what the vote was; it was
13 6 to 1 or 5 to 2, something like that.
14 Q. Were minutes kept of the June 30 meeting?
15 A. Yes.
16 Q. Was it tape recorded?
17 A. It was on C-SPAN.
18 Q. Well, that's the answer.
19 A. I mean, all my charts that were used as graphic
20 presentation materials were all in discovery and I think
21 you folks, I think, requested copies of most of those.
22 Q. It is true, isn't it, that Philadelphia has been

1 actively been involved in the public/private competition
2 on the East Coast?
3 A. They have bid on several jobs, yes.
4 Q. And we've already established Philadelphia's
5 excellence in the cost area, correct?
6 MR. GUTMAN: Asked and answered. Argumentative.
7 THE WITNESS: Well, we have discussed it in
8 fairly lengthy terms about they have -- and I could go
9 back over again the evaluation that I went through in
10 order to try to give a complete review, in addition to
11 looking strictly at man-day rates, which is a very limited
12 way to -- it is one way to look at performance, but
13 clearly the more complete and sophisticated analysis is
14 necessary to really judge whether a shipyard or any
15 industrial facility is cost-efficient or not.
16 BY MR. PITTINSKY:
17 Q. Well, isn't Philadelphia a net contributor to
18 the NIF fund?
19 A. They have been. 1991, so far this year they're
20 not.
21 Q. Well, Admiral Claman here as a deponent, he
22 testified that for the first nine months of 1991, nine