DCN: 6625

Congress of the United States
Washington, DC 20515

August 5, 2005

The Honorable Samuel Knox Skinner
BRAC Commission
2521 South Clark Street
Suite 600
Arlington, VA 22202

Dear Commissioner Skinner,

Enclosed, please find several documents that may be useful to you as you continue your examination of the Department of Defense's recommendation to close Portsmouth Naval Shipyard, the nation's top performing shipyard. We hope this information will help you in your independent, fair, and equitable evaluation of the Department of Defense's Base Closure and Realignment proposal and the data and methodology used to develop the proposal.

We understand that you are faced with a monumental task to conduct an objective analysis and open assessment of the closure recommendations, and we thank you for your continued hard work. Please let us know if we can provide additional information.

Sincerely,

JUDD GREGG
United States Senator

OLYMPIA SNOWE
United States Senator

SUSAN COLLINS
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TOM ALLEN
Member of Congress

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Brigadier General Sue Ellen Turner, USAF (Ret.)
BRAC Commission
2521 South Clark Street
Suite 600
Arlington, VA 22202

Dear Commissioner Turner,

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The Honorable James H. Bilbray
BRAC Commission
2521 South Clark Street
Suite 600
Arlington, VA 22202

Dear Commissioner Bilbray,

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General Lloyd Warren Newton, USAF (Ret.)
BRAC Commission
2521 South Clark Street
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Arlington, VA 22202

Dear Commissioner Newton,

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General James T. Hill, USA (Ret.)
BRAC Commission
2521 South Clark Street
Suite 600
Arlington, VA 22202

Dear Commissioner Hill,

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The Honorable James V. Hansen
BRAC Commission
2521 South Clark Street
Suite 600
Arlington, VA 22202

Dear Commissioner Hansen,

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The Honorable Anthony J. Principi, Chairman
BRAC Commission
2521 South Clark Street
Suite 600
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Dear Chairman Principi,

Enclosed, please find several documents that may be useful to you as you continue your examination of the Department of Defense's recommendation to close Portsmouth Naval Shipyard, the nation's top performing shipyard. We hope this information will help you in your independent, fair, and equitable evaluation of the Department of Defense's Base Closure and Realignment proposal and the data and methodology used to develop the proposal.

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Admiral Harold W. Gehman, Jr., USN (Ret.)
BRAC Commission
2521 South Clark Street
Suite 600
Arlington, VA 22202

Dear Commissioner Gehman,

Enclosed, please find several documents that may be useful to you as you continue your examination of the Department of Defense's recommendation to close Portsmouth Naval Shipyard, the nation's top performing shipyard. We hope this information will help you in your independent, fair, and equitable evaluation of the Department of Defense's Base Closure and Realignment proposal and the data and methodology used to develop the proposal.

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August 5, 2005

Mr. Philip E. Coyle
BRAC Commission
2521 South Clark Street
Suite 600
Arlington, VA 22202

Dear Commissioner Coyle,

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LIST OF ENCLOSURES

(1) What is the value of an efficient shipyard, such as Portsmouth?

(2) Over the last three years NAVSEA has underestimated public shipyard future workload by an average of 14.3%.

(3) DoD violated criterion 8 by excluding environmental clean-up costs from the COBRA model, thus artificially reducing closure costs and shortening the resulting payback period.

(4) Private shipyard capacity and BRAC analysis.

PORTSMOUTH NAVAL SHIPYARD

Question: What is the military value of an efficient shipyard, such as Portsmouth?

Answer:

- Submarines overhauled and modernized at Portsmouth are returned the fleet ahead of schedule, thereby keeping submarines under the control of war fighters longer and providing additional, combat-ready submarines to Combatant Commanders.
- In the last five years, Portsmouth's efficiencies have returned over a year's worth of submarine operational time to the fleet.
- Over the same period, the inefficiencies of the other three yards have resulted in the loss of well over two year's worth of submarine operational time.
- Portsmouth repairs submarines 3-6 months faster than other Naval Shipyards, which more than compensates for the 14-29 day one-way transit time from Hawaii to Portsmouth, and 7-14 day one-way transit from San Diego to Portsmouth.
- Portsmouth, executing two Engineered Overhauls (EOH) per year through 2018, could return 7 years of operating time to Combatant Commanders.
- When an efficient shipyard, like Portsmouth, returns overhauled and modernized ships and submarines to the fleet ahead of schedule and under cost, the war fighter benefits and the taxpayer benefits.

Encl (1)

OVER THE LAST THREE YEARS NAVSEA HAS UNDERESTIMATED PUBLIC SHIPYARD FUTURE WORKLOAD BY AN AVERAGE OF 14.3%

	FY02	FY03	FY04	FY02-FY04
NAVSEA future workload projection for 4 public shipyards (mandays). Source: Dec00 WARR	3,469,000	3,572,000	3,732,000	10,773,000
Actual workload accomplished by the 4 public shipyards (mandays). Source: Sep 02/03/04 WARR	3,960,000	3,902,000	4,456,000	12,318,000
Navsea underestimated future workload by this amount	14.2%	9.2%	19.4%	14.3%

Encl (2)

PORTSMOUTH NAVAL SHIPYARD

DoD violated criterion 8 by excluding environmental clean-up costs from the COBRA model, thus artificially reducing closure costs and shortening the resulting payback period.

- Criterion 8 requires DoD to consider "the environmental impact, including the impact of costs related to potential environmental restoration."[1] DoD calculated that closing PNSY would generate $47 million in Defense Environmental Restoration Account (DERA) costs.[2] Yet DoD excluded these clean-up costs from its COBRA analysis, despite COBRA being designed to calculate "the extent and timing of potential costs and savings" per criterion 5.[3]

- *DoD's first reason for excluding clean-up costs from COBRA – that DoD's liability for environmental clean-up is unaffected by BRAC – is contrary to common sense.*

    - DoD justified excluding clean-up costs from COBRA by arguing that, because DoD is legally obligated to perform environmental restoration regardless of the BRAC process, such clean-up costs are not attributable to BRAC.[4] GAO concurred.[5]

    - However, a base selected for closure in the BRAC process has a deadline for completing the closure – and thus for finishing its environmental remediation. This deadline accelerates the required clean-up and *increases* the clean-up costs.

    - Accordingly, COBRA should include clean-up costs that DoD would not incur absent the BRAC process. We estimate that the accelerated clean-up resulting from PNSY's closure would generate up to $23 million in additional costs.[6]

- *DoD's second reason for excluding clean-up costs from COBRA – that estimating the cost of cleaning the base for civilian use is too speculative – contradicts the very essence of COBRA.*

    - GAO cited an additional DoD justification for excluding clean-up costs from COBRA: the difficulty of predicting clean-up costs because the level of remediation required is affected by subsequent re-use plans.[7]

    - GAO's justification is puzzling given that DoD actually did calculate DERA costs of $47 million. In addition, the essence of COBRA is estimating future costs and savings from moving workload to other shipyards, relocating personnel, etc. DoD devised metrics for estimating these other types of costs, such as building new facilities. DoD should have developed a metric for estimating the full costs – beyond DERA – of remediating a base to a standard permitting a range of civilian uses.

    - Accordingly, COBRA should include not just the DERA costs but also a good-faith estimate of the *full* clean-up costs for transferring PNSY to civilian use. We estimate that the full cost of making PNSY safe for civilian use is up to $98 million.[8]

- DoD's exclusion of clean-up costs from COBRA contradicts historical evidence that clean-up is the primary impediment to the *actual* transfer of excess bases to other uses.[9] Thus DoD's exclusion of up to $121 million in clean-up costs from COBRA artificially reduces the costs of closing PNSY and shortens the resulting payback period.

Encl (3)

[1] BRAC criterion 8.
[2] Department of Defense, Base Closure and Realignment Report, Vol. I, Part 2 of 2, "Detailed Recommendations of May 2005," p. DON-25.
[3] BRAC criterion 5.
[4] Acting Undersecretary of Defense Michael Wynne, "Memorandum: Transformation Through Base Realignment and Closure (BRAC 2005) Policy Memorandum Four – Selection Criteria 7 and 8," December 7, 2004, p. 3.
[5] GAO-05-785, p. 242 n.8.
[6] State of Maine Dept. of Environmental Protection, "Analysis of the Portsmouth Naval Shipyard environmental remediation and clean-up costs not included in DoD (COBRA) analysis for BRAC," June 29, 2005, p. 5 (staff analysis based on Loring Air Force Base closure).
[7] GAO-05-785, p. 45.
[8] The $98 million includes:
(1) $32 million for costs required under the federal Resource Conservation and Recovery Act and Maine law, see State of Maine Department of Environmental Protection, "Analysis of the Portsmouth Naval Shipyard environmental remediation and clean-up costs not included in DoD (COBRA) analysis for BRAC," June 29, 2005, p. 4 (summary of staff analyses of clean-up cost histories) (hereinafter "Analysis of costs not included in COBRA"), and State of Maine Department of Environmental Protection, Memorandum "Portsmouth Naval Shipyard Cost Breakdown," July 12, 2005 (additional detail for "Generator Closure" component of aforementioned summary);
(2) $30 million for measures required by the State of Maine on behalf of the community and State and local governments during proceedings pursuant to the Comprehensive Environmental Response Compensation and Liability Act, see "Analysis of costs not included in COBRA," p. 5 (staff analysis referencing Naval Facilities Engineering Commands' "Feasibility Study Operable Unit 2 for Portsmouth Naval Shipyard, Kittery, Maine, November 2004");
(3) $5 million for site studies already legally required, see "Analysis of costs not included in COBRA," p. 6 (staff analysis referencing DoD BRAC Report supra n.2); and
(4) $31 million for the costs of maintaining the facility safely during the closure process, see "Analysis of costs not included in COBRA," pp. 4, 6 (staff analysis referencing Portsmouth Naval Shipyard Presentation entitled "Efficiency through Innovation," slide 54).
[9] GAO-05-95, p. 29.

ISSUE: Private Shipyard Capacity and BRAC Analysis

Depot Maintenance and the Industrial Base

The recommendation for the closure of Portsmouth Naval Shipyard threatens the ability of the Navy to perform maintenance and modernization requirements within the next 20 years due to the bow wave of maintenance created from high procurement rates of *Los Angeles Class* submarine in the 1980s. Depot-level submarine maintenance is performed at the four Navy shipyards as a matter of sound industrial policy and of law. The maintenance workload problem is so acute today however that the Navy has resorted to using private industry for the first time to handle depot-level maintenance.

Private Sector Depot Maintenance Performance = Complex Maintenance vs. New Construction

Originally, two depot-level major maintenance availabilities were proposed for private industry in fiscal year 2004 and 2006. During fiscal year 2004, the Navy competitively assigned a Depot Modernization Period (DMP) availability, USS SPRINGFIELD (SSN761), to a private sector shipyard, Electric Boat-General Dynamics in Connecticut. Performance on the USS SPRINGFIELD DMP was so problematic and of such a long duration (20 months and counting)[1] that the Navy assigned the second Depot Modernization Period availability, USS HARTFORD (SSN768), to the public sector (Portsmouth Naval Shipyard). The one-time attempt to use private industry resulted in the loss of a submarine from the fleet for more than 5 months beyond the naval shipyard average with a projected cost of about $50 million[2] more than DMPs completed by Portsmouth.

Even with these problems, the Navy is considering assigning the USS TOLEDO (USS769) DMP to the private sector late in fiscal year 2006 citing insufficient public shipyard capacity.

Possible Incorporation of Private Shipyard Capacity in BRAC Analysis

The BRAC law provides for a review of public sector military infrastructure only. While it is clear that "basic" submarine repair capability (facilities, equipment, tradesmen, etc.) exists in the private sector, this fact should not be part of the BRAC decision-making process and is largely irrelevant to the issue of whether there is excess capacity in the Department of the Navy. Maintenance capacity is determined by the combination of a drydock and the scarce skilled workforce required to execute depot maintenance within that drydock. The USS SPRINGFIELD DMP failure illustrates this point: a workforce geared for submarine construction is ill-suited for submarine maintenance.
Utilization of the private sector is a fact in the construction and maintenance our nation's military infrastructure. The policy to establish the capability to execute depot level maintenance of nuclear submarines in the private sector, however, is a separate issue and policy decision not for consideration under the BRAC process – which has the goal of

[1] Status Messages from SUPSHIP regarding USS SPRINGFIELD DMP progress
[2] Status Messages from SUPSHIP regarding USS SPRINGFIELD DMP progress

Encl (4)

analyzing excess DOD assets to create cost savings. It is our judgment, however, that the BRAC analysis by the Navy, and particularly by OSD, used a thought process that included the incorporation of a private sector capability in a Portsmouth closure scenario.

This reliance on the private sector in BRAC calculations was mentioned in the May 17 hearing before the commission by Deputy Assistant Secretary Davis and was echoed by Secretary England.

The 50/50 Rule and Military Industrial Capability

Title 10, Section 2466, U.S.C. states that "Not more than 50 percent of the funds made available in a fiscal year to a military department or a Defense Agency for depot-level maintenance and repair workload may be used to contract for the performance by non-Federal Government personnel of such workload for the military department or the Defense Agency." This law, known as the 50/50 rule, is a safeguard for our country's industrial capability preventing an over-dependence on private firms for depot maintenance. We believe that this safeguard applies to nuclear submarine maintenance more than any other sector and the Department of the Navy is struggling to meet this minimum standard.

Compliance with the 50/50 Depot Maintenance Law

By law, DOD must report to Congress on previous year expenditures as well as current and next year estimates of percentages of depot maintenance in public and private sectors. According to the September 2004 Government Accountability Office report "DOD Needs Plan to Ensure Compliance with Public and Private Sector Funding Allocation," the "recurring weaknesses in DOD's data gathering, reporting processes, and financial systems that prevented GAO from determining with precision if the military services complied with the 50-50 requirement." The report further states that "the future-years report does not represent reasonable estimates of public-and private sector maintenance funding for fiscal years 2004-2008, thereby limiting its usefulness to congressional and DOD decision makers." This report was a reiteration of the strong concerns of the previous years report "DOD's 50-50 Reporting Should be Streamlined,"[3] which highlighted that Navy did not include $401 million in private sector maintenance on aircraft carriers and surface ships" [for fiscal year 2002]. The latest report, from April 2005, concludes that the percentage of public sector execution will be even lower than the DOD FY06 estimate of 49.6% (DOD exempts 1.7%).[4] GAO analysis concludes that the actual private sector portion may be higher.[5]

We believe that BRAC analysis should include analysis of adherence to the 50/50 rule requirement, especially in reference to nuclear submarine and Navy depot maintenance.

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[3] Government Accountability Office report "DOD's 50-50 Reporting Should be Streamlined" GAO 03-1023, September, 2003

[4] Report to Congress "Distribution of DoD Depot Maintenance Workloads for Fiscal Years 2004 Through 2006" April 2005

[5] Government Accountability Office report "DOD Needs Plan to Ensure Compliance with Public and Private Sector Funding Allocation", September, 2004

Conclusion

Closing Portsmouth Naval Shipyard would induce an industrial condition that would require the Navy to incorporate private industry permanently in the major maintenance mission of our nuclear submarine fleet. The Navy would therefore lose the ability to control cost and duration of depot availability work as is currently the case with submarine depot availabilities in private shipyards. This action would also require either an exclusion of the Navy from the 50/50 rule or an unjustified long-term waiver for "national security." Each of those is a substantial policy issue in its own right that should be evaluated individually, and each of those is beyond the scope of the BRAC law.

Because of the irreversibility of a closure decision in terms of a workforce and infrastructure reduction, the effects of a Portsmouth closure are likely to have the effect of "subsidizing" inefficient execution of submarine maintenance work by private industry, with no ability within the Department of the Navy to recover from cost and/or schedule failure on future depot maintenance work. Furthermore, reliance on private sector shipyards for submarine maintenance following closure of a public shipyard would almost certainly exceed the 50 percent limit on private depot work, in violation of the 50/50 law.