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BRAC Commission

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received

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

RE: Consolidation of the Defense Office of Hearings & Appeals (DOHA)

Dear Admiral Gehman:

I write to request your assistance in removing the DOHA administrative judges and department counsel from the proposed consolidation and closure of our regional offices. I reference your inquiry at the May 19, 2005, meeting where you asked Mr. Tison if the BRAC proposal is disenfranchising people from coming to regional and the Washington Headquarters hearing offices. You were on the right track but were given an evasive answer. Mr. Tison lumped the judges and counsel into the entire adjudication function. The correct answer is the proposal will undermine the due process portion of DOHA and place the hearing courtrooms beyond reasonable public access.

Please consider the following:

1. Public access to Ft. Meade for hearings will create burdensome delays and total chaos. As a 30-year member of the Army Guard and Reserve, it has often taken me up to an hour to get my automobile onto a military installation. Imagine what it will be like to get applicants for security clearances, including contractor employees and government employees, but also their attorneys, witnesses, judges, court reporters and any member of the general public that might wish to observe a hearing onto a secure military installation.

2. Closing the regional offices will increase our case backlog and add costs not factored in the report. Consider the cost of sending judges and counsel to the west coast for hearings. That is two days' travel so only three days available for work. Add the cost of transportation, lodging and per diem that is not paid now because the personnel in the California office are there and can work 4-5 days per week.. This will also delay issuance of decisions.

3. DoD just spent between \$9 - \$10 million moving DOHA - Arlington into new, secure offices in April 2005. The courtrooms are two blocks to a metro stop and one block either direction for bus service. It is readily accessible to the public. Ft. Meade has little public transportation available.

4. It is said the consolidation will provide DOHA enhanced anti-terrorism force protection. What about the Interior Department Hearings Office located one block away and the Immigration Hearings Office two blocks away? They are not moving. This is sophistry.

5. DOHA (like most agencies in leased facilities) was not told what consolidation plans were being considered and was given no opportunity to provide information on the impact to its operations. Nor was the surrounding business community given the opportunity for input.

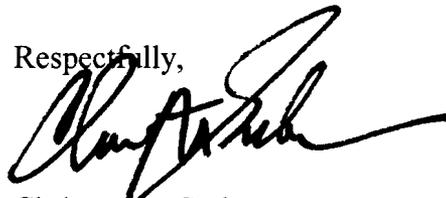
The decision affecting the judges and counsel has not been adequately documented and thoroughly examined. I have taken the liberty of attaching the pages affecting DOHA marking in yellow the lines that should be deleted from the final report.

I ask your advocacy on behalf of the DOHA judges and counsel so that you will not disenfranchise the public of the due process functions of DOHA.

Finally, I write in three capacities. (1) I am an Administrative Judge with DOHA; (2) I am the immediate Past President of the National Association of Administrative Law Judges; and (3) I am the new Chair of the National Conference of the Administrative Law Judiciary, a part of the Judicial Division of the American Bar Association. While the opinions are my own and do not reflect official policy of the above organizations, both NAALJ and NCALJ are strong advocates for equal access to justice and an independent administrative judiciary.

Thank you for your time and consideration.

Respectfully,



Christopher Graham
Administrative Judge
Defense Office of Hearings & Appeals

cc: Senator Christopher Bond
Senator James Talent
Representative Ike Skelton
Representative Todd Akin

SEGA: I would like to take that one for the record to get the actual details. There are an awful lot of technical facilities.

GEHMAN: Thank you. It would be useful at the macro level to know whether you've made a big impact or a little impact or what.

My second question is going through the BRAC report very briefly, again without the data, very carefully here, I look at the section that says "consolidate C4ISR," which is to me the nervous system that creates jointness. That is if the people can talk and the systems are interoperable and you can share data and you're all looking at the same enemy, the lieutenant colonels will figure out what to do.

I see this consolidate section does not include any Navy facilities. Did the Navy decline to play? These are all Air Force facilities being consolidated here. The Navy does C4ISR. Can you make a comment on that?

SEGA: I'd be glad to. In the consolidations that we made, we highlighted, as you recall, the purple block. It was something that we thought was so important, the C4ISR, that we gave it a special category, and we had one of our subgroups address that directly. We also understood that, as we organized this for getting the work done, the integration was so key. We had to do C4ISR in nearly everything we did.

The Navy, I hope, with the Commissioner Coyle's comment, would be participating in these that are in the air side as well, but the C4ISR places that we will eventually have include a East and West Coast center, and that will not be exclusively focused on the surface Navy, but also air and space.

The Point Loma facility, San Diego, as well as Little Creek, Virginia, are going to be consolidated centers for the Navy in this area of C4ISR. So that was a major piece of movement in that we had realignments to establish those centers.

But I can assure that it's critically important to the Department of Defense that Navy expertise is integrated with the rest of the services and agencies to move us forward in C4ISR.

GEHMAN: I have a similar question under what I think we used to call energetics, that's guns and ammunition, and, again, going by this report, created an integrated weapons and armaments site for guns and ammunition. I see all the sites here. It looks like the Navy and the Army are consolidating, but, here, it looks like the Air Force decided not to play. Am I misreading this?

SEGA: I'd like to get back with you on the details where the Air Force is, but the Picatinny arsenal will be, if the recommendations are approved, a major center for small arms in particular.

The work in the large caliber is (inaudible), but we also have work at Crane and other places that will continue to work in the area of guns and ammunition. However, we're also looking at it in a broader context of the chemistry and the explosives that are potentially coming forward, nanotechnology and other things will potentially help drive that, but an energetic materiel can be used as an explosive, energetic materiel in another form potentially as a propellant, and another form potentially releasing energy for electrical power.

So we've also tried to concentrate activity to improve our output in the area of understanding and products in the area of energetics that will be cross-service in application.

GEHMAN: Well, these are areas that we'll have to look at in some more detail. As you can tell from my question, I want both more and less.

SEGA: Sure.

[REDACTED] Tison, I just have one question for you.

I do not know what happens at these little offices called the Defense Office of Hearings and Appeals that are located around the country that are all being rolled into Fort Meade. My question, though, is: Are you

disenfranchising people from coming to regional offices to work out whatever it is that they appeal there, in Phoenix, in California, in an effort to consolidate everything in one place?

→ [REDACTED] sir, we don't believe we are. This is part of the adjudication process. Once you go through the security system screening, your process goes for the adjudication agencies who decide that, and, of course, there is an appeals process. We'll continue to look at that, but our sense is that is now extremely transactional.

[REDACTED] these are not kind of walk-in places.

[REDACTED] No, sir. These are very small organizations.

GEHMAN: Yes. All right. Very good.

Commissioners, do you have any additional questions before we finish?

Yes?

TURNER: General Taylor, back to you, I was looking at your written testimony again, and I had one of those ah-ha moments. Back to Lackland Air Force Base, which most people know is the only basic training base in the Air Force, so there's just lots of young folks, the proposal is for a large state-of-the-art ambulatory medicine center. That's not the way I read it the first time. Is ambulatory medicine center the correct terminology?

TAYLOR: The way we've been phrasing it is a large outpatient clinic with ambulatory surgery capability. The troop clinic will still be there. The big dental activity will still be there.

TURNER: OK. That clarifies that.

TAYLOR: Yes, ma'am.

TURNER: Briefly, could you clarify for the commissioners what level of emergency services would be available for those basic trainees?

TAYLOR: It would be up to the Lackland folks to make the decision as to whether they were on 24-hour capability or not. If you don't know, we have independent duty medical technicians now embedded into the troop activities today. So they have access to the IBMTs (ph), and then it would be up to the Lackland community to decide whether they want to run a 24-hour urgent-care clinic there or not.

TURNER: Thank you.

GEHMAN: Any other commissioners that I may recognize?

If not, thank you very much, witnesses. We appreciate it very much.

The commission is still in session. We're not going to adjourn. We have some other matters to attend to. It will take us about two minutes. So you can just remain seated, if you want, and watch the entertainment.

Commissioners, we have two or three items that need to be taken care.

The first is the commission has previously circulated to you a set of proposed rules for the commission's operations, and you've had an opportunity to look at them. Does any commissioner wish to speak or make any comments or questions?

Yes?

recommended actions on this economic region of influence was considered and is at Appendix B of Volume I.

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

Environmental Impact: This recommendation has a potential impact on air quality at Andrews Air Force Base and Arlington Hall. An air permit revision and new source review may be needed. This scenario may impact a historic property at Andrews Air Force Base that is not in a historic district. This scenario may require building on constrained acreage at Andrews Air Force Base. Additional operations may impact threatened and endangered species and/or critical habitats at Andrews Air Force Base. Wetlands do not currently restrict operations at Andrews, but additional operations may impact wetlands, which may restrict operations. This recommendation has no impact on dredging; marine mammals, resources, or sanctuaries; noise; waste management; or water resources. This recommendation will require spending approximately \$0.3M for environmental compliance activities. This cost was included in the payback calculation. This recommendation does not otherwise impact the cost of environmental restoration, waste management, or environmental compliance activities. The aggregate environmental impact of all recommended BRAC actions affecting the bases in this recommendation has been reviewed. There are no known environmental impediments to implementation of this recommendation.

Co-locate Defense/Military Department Adjudication Activities

Recommendation: Close 21820 Burbank Boulevard, a leased installation in Woodland Hills, CA. Relocate all components of the Defense Office of Hearings and Appeals Western Hearing Office to Fort Meade, MD.

Close 800 Elkridge Landing Road, a leased installation in Linthicum, MD. Relocate all components of the National Security Agency Central Adjudication Facility to Fort Meade, MD.

Realign 2780 Airport Drive, a leased installation in Columbus, OH, by relocating all components of the Defense Industrial Security Clearance Office and the Defense Office of Hearings and Appeals Personal Security Division to Fort Meade, MD.

Realign 1777 N. Kent Street, a leased installation in ~~Arlington, VA~~ by relocating all components of the Washington Headquarters Service Central Adjudication Facility to Fort Meade, MD.

Realign 875 N. Randolph Street, a leased installation in Arlington, VA, by relocating all components of the Defense Office of Hearings and Appeals Headquarters to Fort Meade, MD.

Realign 10050 North 25th Avenue, a leased installation in Phoenix, AZ, by relocating all components of the Defense Office of Hearings and Appeals Arizona office to Fort Meade, MD.

Realign the Washington Navy Yard, DC, by relocating all components of the Navy Central Adjudication Facility Fort Meade, MD.

Realign Bolling Air Force Base, DC, by relocating all components of the Air Force Central Adjudication Facility and the Defense Intelligence Agency Central Adjudication Facility Fort Meade, MD.

Realign the Pentagon, Washington, DC, by relocating all components of the Joint Staff Central Adjudication Facility to Fort Meade, MD.

Realign the U.S. Army Soldiers Systems Center Garrison, Natick, MA, by relocating all components of the Defense Office of Hearings and Appeals Boston Hearing office to Fort Meade, MD.

Justification: This recommendation collocates all Military Department (MILDEP) and Department of Defense (DoD) security clearance adjudication and appeals activities at Fort Meade, MD. It meets several important DoD objectives with regard to future use of leased space, enhanced security for DoD activities, and collocates National Capital Area intelligence community activities. It also enables the Intelligence Reform and Terrorism Act of 2004, the Administration's counterintelligence strategy, and the Remodeling Defense Intelligence initiative. Additionally, this recommendation results in a significant improvement in military value due to a shift from predominately-leased space to a location on a military installation. The military value of adjudication activities current portfolio of locations ranges from 152-280 out of 334 entities evaluated by the Major Administration and Headquarters (MAH) military value model. Fort Meade, MD, ranks 94 out of 334.

Implementation will reduce the Department's reliance on leased space, which has historically higher overall costs than government-owned space and generally does not meet Anti-terrorism Force Protection standards as prescribed in UFC 04-010-01. The benefit of enhanced Force Protection afforded by a location within a military installation fence-line will provide immediate compliance with Force Protection Standards. MILDEP and Defense adjudication activities located currently at leased locations are not compliant with current Force Protection Standards. This recommendation eliminates 136,930 Gross Square Feet (GSF) of leased administrative space. This action provides a collocation of these activities, and reduces the number of locations from 13 to one.

Payback: The total estimated one-time cost to the Department of Defense to implement this recommendation is \$67.1M. The net of all costs and savings to the Department during the implementation period is a cost of \$47.5M. Annual recurring savings to the Department after implementation are \$5.7M, with a payback expected in 13 years. The net present value of the costs and savings to the Department over 20 years is a savings of \$11.3M.

Economic Impact on Communities: Assuming no economic recovery, this recommendation could result in a maximum potential reduction of two jobs (1 direct job and 1 indirect job) over