

Defense Base Closure and Realignment Commission

EARLY



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BRAC Panel Sends Final Report to President

Donna Miles
American Forces Press Service
September 9, 2005

WASHINGTON,— The Base Realignment and Closure Commission delivered its final report, outlining its recommendations for reshaping the Pentagon's infrastructure and force structure plan, to President Bush late Sept. 8. Copies of the report are expected to be delivered today to the Defense Department and Congress, according to a news release the BRAC Commission issued Sept. 8.

The nine-member panel wrapped up months of public hearings and four days of final deliberations in Arlington, Va., Aug. 27, and

met the Sept. 8 headline for submitting its final report to the president.

The president now has several options. If he concurs, he can approve the report and send it to Congress by Sept. 23. He also can reject it or return it to the commission for revisions.

If Bush sends the report to Congress, its members will have 45 legislative days to accept or reject the list in its entirety. Congress is not authorized to make changes to the final report.

Defense Secretary Donald H. Rumsfeld released 190 recommendations for closing and realigning military installations May 13, calling them an opportunity to "reset our force," to make it more efficient and cost-effective. Department representatives spent two and a half years assembling the original list.

Rumsfeld said his recommendations would cut excess military infrastructure between 5 and 11 percent and save \$48.8 billion over 20 years.

After months of study, visits to affected installations, and public hearings around the country, the commission approved 86 percent of DoD's original recommendations -- 119 with no change and another 45 with amendments, the panel noted.

However, the panel rejected 13 recommendations, significantly modified another 13, and made five additional closure or realignment recommendations on its own initiative.

Of DoD's 33 major closure recommendations, the panel approved 21, recommended seven bases be realigned rather than closed, and rejected five recommendations outright. In addition, the commission recommended closing rather than realigning another installation, for a total of 22 major closures.

The BRAC panel withdrew its recommendation to realign Connecticut's 103rd Fighter Wing. That recommendation, one of the commission's many deviations from the original DoD plan regarding realignment of the Air National

Guard, met with legal opposition in the U.S. District Court for Connecticut.

The commissioners agreed that if the court's injunction is later vacated, reversed, stayed or otherwise withdrawn, the recommendation regarding the 103rd Fighter Wing will be returned to their report.

Anthony Principi, the panel's chairman, said he's proud of the commission's work and recommendations. "We reached our decisions through an open, fair and non-partisan process," he said. "While we listened carefully to the input from local communities, military value was our top priority."

National News Articles

Appeals court allows inclusion of Bradley in BRAC report

The Associated Press
John Christoffersen
September 9, 2005

NEW YORK --An appeals court issued an emergency stay Friday to restore Bradley Air National Guard base to a list of nationwide closings and realignments of military installations.

The 2nd U.S. Circuit Court of Appeals issued the ruling Friday after hearing testimony from the federal government and Connecticut officials.

Connecticut Attorney General Richard Blumenthal said he will consult with Gov. M. Jodi Rell before deciding if he will appeal to the U.S. Supreme Court.

"Our position is still solid and sound," Blumenthal said after the ruling. "We will absolutely continue this fight."

Attorneys for the federal government did not comment.

At issue is the government's plan to remove all the jet fighters from the Bradley base in East

Granby. U.S. District Judge Alfred V. Covello in Hartford on Wednesday blocked the Base Closure and Realignment Commission's recommendation to realign the Bradley base and its 103rd Fighter Wing. The case was appealed by the federal government.

Rell said she was disappointed.

"This ruling does not appear to deal with the merits of our case. It is certainly not the end of our legal battles," she said.

State officials say the realignment is illegal because Rell, the commander in chief of the Connecticut National Guard, didn't give her consent. State officials also said that Connecticut would become the only state without an Air Force flying mission, leaving it at risk during a natural disaster or terrorist attack.

"To simply presume the BRAC process requires ignoring and disregarding the governor and the law really in my view is reprehensible," Blumenthal told the appeals court.

Judge Rosemary Pooler pressed Justice Department attorney Douglas Letter on whether the issue called for review by the courts.

"If there is review, it's at a later stage," Letter said.

Letter warned that if Connecticut succeeded, other governors could press the same argument.

"And the BRAC system simply disintegrates," Letter said.

Blumenthal said after the ruling that the federal government had conceded that the issue is subject to court review at some point.

The federal government had also sought a stay of execution of Covello's order from the U.S. Supreme Court, but Justice Ruth Bader Ginsberg declined to intervene Thursday. Her ruling left open the possibility that the administration could file another appeal later that could be heard by the full court.

The commission's recommendations involve more than 800 military installations nationwide. The panel submitted its report Thursday to President Bush without the Bradley realignment, but said it would reinsert its Bradley recommendation if the judge's ruling is overturned.

Under the realignment plan approved by the commission, the 15 A-10 Thunderbolts at Bradley would be sent to the Air Force's pool. Staffing at the Bradley base would remain the same.

Panel Backs Base Closings But Criticizes Plan's Timing

New York Times
David S. Cloud
September 10, 2005

WASHINGTON, Sept. 9 - The military base-closing commission gave its final endorsement on Friday to eliminating or shrinking hundreds of Department of Defense installations nationwide, but it criticized the timing of the closings.

Noting that American troops are deployed abroad and that the Pentagon is in the midst of a top-to-bottom review of global strategy, the commission said it would have been "far preferable" to have delayed the base-closing process so that "nearly irreversible infrastructure and capacity changes" could have been guided by the outcome of the review.

Even so, the panel late Thursday forwarded its report endorsing most of the Pentagon base-closing plan to President Bush. The White House has signaled that it will send the recommendations to Congress without seeking further revisions.

If Congress approves the plan, the Pentagon will be able to proceed with its most far-reaching retrenchment in decades and consolidate many previously far-flung military units at a smaller number of bases.

But the blueprint faces opposition from several states that would lose bases and that have filed lawsuits seeking to block parts of the plan. So far that strategy does not appear to be working.

On Friday, the United States Court of Appeals for the Second Circuit restored to the list a Connecticut airfield slated to lose its squadron of A-10 Thunderbolts. The state had obtained an injunction last month from a Federal District Court removing the base from the list. State officials said they were considering an appeal to the Supreme Court.

In deliberations last month, the base-closing commission, which was established by Congress to review the Pentagon plan, voted to keep open five bases the Pentagon wanted to shut and to reduce operations at seven others on the closing list. That reduced the number of major base closings to 21, from 33.

But over all, much of the Pentagon plan, which called for eliminating, shrinking or assigning new missions to more than 800 installations in all 50 states, emerged intact.

The commission said Friday that it had endorsed 86 percent of the Pentagon's recommendations, in line with past base-closing commissions, which changed only about 15 percent of what the Pentagon proposed.

Last month, Mr. Bush said he would let the revisions stand. But Defense Secretary Donald H. Rumsfeld has expressed dissatisfaction with some changes, and a Pentagon spokesman said it was unclear whether he would recommend that Mr. Bush restore some bases the commission removed from the list.

"We haven't finished our analysis, and so it's too soon to say what the secretary will recommend," said the Pentagon spokesman, Glenn Flood.

Though it does not appear likely, Mr. Bush could still reject the report altogether or send it back to the commission for more changes. After Congress receives the report, it becomes law after 45 days unless the House and the Senate pass a joint resolution objecting to it. That has

not occurred in four previous base-closing rounds.

In its report, the commission also restated that, instead of a nearly \$48 billion in savings originally estimated by the Pentagon, the military budget would probably be reduced by only \$15 billion over the next 20 years if the plan was put into effect.

Base-Closure Panel Finds Overestimation Of Savings

Washington Times
September 10, 2005

The Pentagon overestimated savings from base closings by \$30 billion and some of its plans for streamlining the Army, Navy and Air Force might have made the services less efficient, a federal commission that reviewed the process said yesterday.

In its final report, the nine-member panel also questioned whether the Pentagon should have postponed the current round of base closings and consolidations, the first in a decade, until a major review of the national defense strategy was finished.

With its five months of work complete, the Base Realignment and Closure Commission voiced its concerns even as it approved roughly 86 percent of what Defense Secretary Donald H. Rumsfeld recommended as he sought to save money by getting rid of extra space in the domestic military network.

That's on par with previous years, when commissions changed only about 15 percent of what the Pentagon proposed.

President Bush now must decide whether to accept the panel's plan. Last month, the president, using the commission's acronym, told reporters: "in order for the process to be nonpolitical, it's very important to make it clear that the decision of BRAC will stand, as far as I am concerned."

Mr. Bush still could reject the report altogether or send it back to the commission for more changes. Either of those options could open him up to criticism when his poll numbers are low and his administration is taking heat for its response to Hurricane Katrina.

Pentagon spokesman Bryan Whitman would not say whether Mr. Rumsfeld, who has expressed reservations about some of the commission's changes, will recommend approval or rejection of the report.

After Congress receives the report from the president, lawmakers have 45 days to block it. The report will become law unless the House and the Senate pass a joint resolution objecting to it. That has never occurred in previous base-closing rounds.

Along with changes at hundreds of smaller facilities, the Pentagon had recommended closing 33 major bases. The panel approved 21 of those closures, but proposed scaling back forces at seven of those bases rather than shutting the doors entirely. In the most high-profile decisions, the panel decided to keep open five major bases the Pentagon wanted to scrap.

The Pentagon has claimed its plan, affecting military bases and communities from coast to coast, would save about \$49 billion over 20 years.

But the commission said in its final report that the Pentagon wrongly attributed most of the savings to the relocation of 26,830 military personnel to other facilities. Agreeing with an earlier assessment by the Government Accountability Office, the commission said taxpayers would not see actual savings simply by moving personnel from one base to another. Those workers' jobs would have to be eliminated for savings to be realized.

If the personnel "savings" were not included, the commission said the Pentagon plan would save only \$19 billion.

BRAC panel submits plan amid legal wrangling

Bangor Daily News
September 9, 2005

The base closing commission submitted its recommendations to the White House on Thursday night after withdrawing proposed changes at an Air National Guard base in Connecticut.

What was to have been a routine paperwork delivery of those proposals to President Bush was threatened by a cross-country legal fight.

Judges in Connecticut and Tennessee blocked the panel from recommending changes at local Air National Guard bases. The Tennessee decision was overruled by an appeals court Thursday afternoon, but the Connecticut injunction stood.

Supreme Court Justice Ruth Bader Ginsburg rejected the Bush administration's request for intervention in the Connecticut case.

The Base Closure and Realignment Commission, which was bound by law to send its report to the president by Thursday, withdrew the portion of the report recommending the realignment of Connecticut's 103rd Fighter Wing. The plan would have moved jets from Connecticut's Bradley Air National Guard base to Massachusetts.

The commission said it would restore the recommendation if the Connecticut court's injunction "is later vacated, reversed, stayed or otherwise withdrawn."

Separately, Illinois, Missouri and New Jersey lost emergency Supreme Court appeals intended to stop the commission from sending the report to the president. Facilities in those states are among hundreds targeted by the base-closing panel for closure or consolidation in the first round of base closings in a decade.

Solicitor General Paul Clement, the administration's Supreme Court attorney, said the court should safeguard the work of the

president and a commission that has spent five months on a plan to restructure domestic military bases to save billions of dollars.

On the closure list was Maine's Brunswick Naval Air Station. Two other Maine facilities, the Portsmouth Naval Shipyard in Kittery and the Defense Finance and Accounting Service center in Limestone - were spared by the commission.

Also, under the commission recommendations, the Maine Air National Guard base in Bangor is slated to gain 12 KC-135 refueling tankers - eight from a Guard base in Niagara Falls, N.Y., and two each from bases in Alabama and Mississippi.

The president has pledged to pass the commission's final report on to Congress without changes. Copies of the report will be delivered Friday morning to Congress and the Defense Department. Congress will then have 45 days to block it, although lawmakers have never rejected reports in previous base-closing rounds.

BRAC panel sends final recommendations to Bush

Copley News Service
Otto Kreisher
September 9, 2005

Despite continuing legal attempts by several states to stop it, the independent base closure commission has given President Bush its final recommendations, which call for less dramatic changes in military bases and units than Defense Secretary Donald Rumsfeld had wanted.

The nine-member Base Closure and Realignment panel approved about 86 percent of the 837 large and small changes that Rumsfeld proposed, but rejected or modified a dozen of his most significant actions, retaining some major bases and closing or threatening others the Pentagon had wanted to retain.

The major changes by the panel made were to retain the Portsmouth Naval Shipyard, at Kittering, Maine; the New London Submarine

Base at Groton, Conn., and Ellsworth Air Force Base, S.D., which Rumsfeld wanted to close. It also refused to close Cannon Air Force Base, N.M., but agree to remove all its aircraft and gave the Pentagon until 2009 to find another use for the isolated base.

Two experience observers of the base closure, or BRAC, process said the commissioners showed more concern for the possible economic impact on local communities in their decisions to change some of Rumsfeld's proposals.

The commissioners also criticized Rumsfeld's massive proposal to reduce and reorganize the military's extensive base structure, saying it vastly overestimated the expected savings and may have reduced integration of the military instead of a coming together, which was supposed to be key purpose of this closure round.

The panel estimated the changes would result in a net savings of only \$19 billion over 20 years, instead of the \$49 billion Rumsfeld had claimed. Much of that difference was due to the commission's rejection of the Pentagon's calculation of savings from personnel moves from outdated jobs to future missions.

Fewer than 10,000 military and 18,000 civilian employees would be eliminated by the closures and realignments, less than 1 percent of the Pentagon's total work force.

In a cover letter to Bush, chairman Anthony Principi said the commission was confident that its recommendations "will positively shape our military for decades to come."

But the panel recommended that the Pentagon plan for additional closure rounds and suggested they be tied to the comprehensive defense review Congress requires every four years. It is considered unlikely that Congress would approve another politically painful round any time soon.

The commissioners also responded to the protests from many governors and state National Guard leaders by making significant changes to

the proposed sweeping cutbacks in Air National Guard flying units.

And because of lawsuits filed by half a dozen governors - including Illinois Gov. Rod Blagojevich - who claimed the Pentagon could not move or change Guard units without their permission, the commission deleted reference to one of the Air Guard actions and blurred the results of others in its final report.

Although federal judges rejected five of the six attempts to block the report, including the Illinois suit, the remaining legal action by Connecticut forced the commission to delay sending its report to the White House until late Thursday, which was its legal deadline for completing its work.

Because the U.S. Supreme Court refused to set aside the Connecticut suit, the report dropped reference to its recommended elimination of an Air Guard unit. The commission said it would restore the Connecticut action if the state's suit is dismissed.

A federal appeals court set aside that action Friday.

Although Rumsfeld has grumbled about some of the commission's changes to his recommendations, Bush is expected to approve the report and send it on to Congress by the deadline. If the president accepts the panel's decisions, Congress can only block it if both chambers pass resolutions of disapproval within 45 legislative days. That is considered unlikely.

Most of the approved changes would take several years to execute and all must be completed within six years after the commission's recommendations become final.

(CALIF.)

California, which suffered heavy losses in military and civilian jobs in the four previous BRAC rounds, is expected to lose fewer than 2,000 defense positions this time.

San Diego County, with the state's largest concentration of military, is expected to see a net loss of about 1,200 uniformed and civilian defense positions. The biggest cuts would come from the shift of enlisted medical training from the Naval Medical Center to a joint facility in Texas, elimination of a Defense Finance and Accounting office and the transfer of a number of aircraft repair functions from the Naval Aviation Depot on North Island Naval Air Station.

But those cuts of about 3,300 personnel will be offset partly by the transfer in of about 2,100 sailors and civilians, most of whom will go to the Naval Station and Point Loma, along with the headquarters of the Mine Warfare Command and seven mine-sweeping ships.

While all of those changes had been recommended by Rumsfeld, the commission added a provision that would close the Navy's Broadway Complex and relocate its activities and personnel to other San Diego-area bases, unless the Navy completes a deal for a private lease and redevelopment of the site by Jan. 1, 2007.

The panel had considered ordering the complex closed but yielded to the appeals by Navy and San Diego officials to allow them to negotiate a favorable agreement for the valuable property.

(ILLINOIS)

Although the commission rejected a number of the 29 proposals to eliminate the flying units from Air Guard installations across the nation, it approved moving the 15 F-16s of the Illinois Guard's 183rd Fighter Wing from the Abraham Lincoln Capitol Airport in Springfield to Fort Wayne, Ind. The Illinois Air Guard headquarters and the 217th Engineer Installation Squadron would remain at the airport and a jet engine repair activity would be moved in, resulting in the net loss of 163 personnel, mostly civilian defense employees.

Because of the uncertain outcome of the governors' lawsuits, the report contains language that conditions action on the Air Guard units on

state approval. For Springfield it says: "If the State of Illinois decides to change the organization and composition and future location of the 183rd Fighter Wing to integrate the unit into the future total force, all personnel allotted to the 183rd Fighter Wing ... will remain in place and assume a mission relevant to the security interest of" Illinois and the nation.

The Justice Department has told the commission that the BRAC law supercedes the statutes the governors' claim gives them a veto over any changes to their Guard units.

The panel also approved the movement of four C-130 transports and 35 military and civilian jobs to the 182nd Airlift Wing at the Greater Peoria Regional Airport, from an Air Guard unit in Nashville, Tenn.

Overall, Illinois would see a net loss of about 2,600 military and civilian personnel under the commission's proposed actions. Most of those cuts would come from the shift of enlisted medical training from Great Lakes Naval Training Center to Texas and a transfer of functions from the Rock Island Army Arsenal to other facilities.

Sen. Richard Durbin, D-Ill., said he hoped Bush would reject the BRAC report as "a short-sighted and error-ridden set of recommendations that will cut jobs in the communities like Springfield and Rock Island and fail to comply with the criteria established for this BRAC process under law."

Durbin urged Blagojevich to continue his legal battle against the commission's work and vowed to vote against it if it reached the Senate.

(OHIO)

The panel approved the removal of the C-130s from the Ohio Air Guard's 179th Airlift Wing at Mansfield-Lahm Airport and the F-16s of the 178th Fighter Wing at Springfield-Beckley Airport. Those moves would result in the loss of 234 military and civilian personnel at Mansfield and 291 from Springfield.

But overall, Ohio would almost break even in the BRAC process, due to decisions to move additional jobs to Wright-Patterson Air Force Base at Dayton and to a Defense Finance and Accounting office in Columbus.

The state also would see the closure of about a dozen National Guard and military reserve centers, with the effected personnel moving to a smaller number of consolidated multiservice centers.

While the commission rejected several of the proposed major closures, including the two large Navy installations in New England, it added the threat of closure for one of the Navy's largest jet bases - Oceana Naval Air Station in Virginia Beach, Va.

Although Navy leaders and Pentagon officials insisted they could not afford to replace Oceana, the commission decided the extensive housing and commercial development around the base was seriously hurting its operations. The panel gave Virginia and local officials an ultimatum to buy and demolish hundreds of buildings under Oceana's flight pattern or the base would be closed and its aircraft moved to a former naval air station near Jacksonville, Fla.

Veteran observers of the base closing process attributed the commission's uncommonly detailed work to the members' extraordinary depth of knowledge and hard work. The commissioners included four retired senior military officers, two retired congressmen, two former cabinet officials and a man who had a career in a weapons development and testing.

"These were people well beyond competent and of diverse backgrounds, which probably brought a lot to the table," said Christopher Hellman, a BRAC specialist at the Center for Arms Control and Non-Proliferation.

"This commission had a far greater expertise and knowledge about this issue than commissions in the past. They put their expertise to use," said Paul Taibl, an analyst at the Business Executives for National Security.

Hellman and Taibl predicted Bush would accept the commission's report and that Congress would not block it.

BRAC panel makes last minute change to get report to President;

Marshall: Legal challenges to base closings pose "awkward" problems at finish line

Stephen J. Lee
Grand Forks Herald
September 9, 2005

Making a last-day revision to avoid a court challenge to its process, the Defense Base Realignment and Closure Commission delivered its report to President Bush Thursday evening, according to a news release faxed at 9:45 p.m. Washington, D.C. time from the BRAC commission's office.

It came in, then, hardly more than two hours before the midnight deadline amid challenges from several states this week that put the BRAC panel in what was an "awkward position" said John Marshall, the Grand Forks attorney who has led the local base retention effort.

Marshall was getting away from it all, holed up in his hunting shack, he said, but still closely monitoring the late-hour legal wrangling that seemed to threaten the months-long BRAC process.

Federal law says the BRAC panel must file its report by midnight tonight (Thursday). The President can approve it or send it to Congress, reject it, or return it to the BRAC panel one time for revisions. Once it goes to Congress, it will become law unless Congress officially rejects it within 45 days.

But attempts in several states to stop base closures or realignments have resulted in federal judges ordering the BRAC panel not to file its report until the local challenge gets its hearing.

Thursday, Sen. John Corzine, D-N.J., asked the U.S. Supreme Court to block the BRAC panel from delivering its report. Corzine's request for

an emergency stay was filed with Justice David Souter, who could rule himself on the matter or consult the other eight justices, according to The Associated Press.

Corzine and other New Jersey officials want to keep Fort Monmouth off the BRAC panel's closure list.

Wednesday, a lower court rejected the attempt in New Jersey to stop the BRAC panel from putting Monmouth on the closure list.

Interestingly, Souter wrote a 1994 opinion that federal courts can't tinker with BRAC recommendations, the same opinion cited Wednesday by the appeals court rejecting the effort, The AP reported.

A similar attempt in Connecticut also is before the Supreme Court.

Solicitor General Paul Clement, the Bush administration's Supreme Court attorney, told justices that Hartford judge Alfred V. Covello was out of line in ruling Wednesday that the BRAC's recommendation to take jet fighters from an Air Guard base there was illegal because the governor didn't approve it.

"Placing the commission and the president in this position is fundamentally antithetical to the proper operation" of the BRAC commission, Clement said in asking the court to step in. The Pentagon and White House generally have argued that federal statutes make the BRAC panel's recommendations off limits for review by courts.

The last-minute appeals were sparked by the fact that once the report is filed with the president, no court can review it.

Court Grants Temporary Restraining Order To Block BRAC Decision

US Fed News
September 9, 2005

The Tennessee Attorney General issued the following news release:

Tennessee Attorney General Paul G. Summers today announced the Federal Court has granted a motion to block the Defense Base Closure and Realignment Commission (BRAC) from delivering its report to the President Bush that would have dismantled the 118th Air Lift Wing.

"Today's decision is a clear victory for the 118th airlift wing, the governor and the State of Tennessee," Attorney General Summers said. "Today's decision means the BRAC cannot include the transfer of 8 C130 airplanes from the 118th to other national guard units across the country."

The Attorney General's Office filed a lawsuit on behalf of Gov. Bredesen on Aug. 19 in the United States District Court in the Middle District. Today Judge Echols determined the State had met the requirements to grant the temporary retraining order.

Judge Echols made his decision, citing, the "governor's likelihood of success on the merits of his constitutional and statutory claims, the irreparable injury he faces, the harm imposing injunctive relief would cause the defendants and the public interest.

Local News Articles

Panel Leaves The Door Open For Planes At Willow Grove

Philadelphia Inquirer (Philadelphia, PA)
Marc Schogol
September 10, 2005

Although the federal base-closing commission officially voted to strip the Air National Guard unit at Willow Grove of its A-10 attack planes, its final report surprisingly suggests that the Pentagon consider not taking all 15 jets.

The Base Closure and Realignment Commission also says that the base's future use may be as an airport for civilian and military planes.

In its final report, sent to President Bush on Thursday, the commission reaffirmed its

decision last month to remove the Air Guard's A-10s and close the existing Naval Air Station and Joint Reserve Base.

But then - in a nonbinding suggestion - BRAC said the Defense Department should consider keeping some jets at the base.

Or, in bureaucratese, the commission said it "encourages the Department of Defense to consider identifying A-10 aircraft to form an A-10 wing or detachment using the 111th Fighter Wing of the Air National Guard located at Willow Grove."

Bush now can accept or reject the report, which covers bases throughout the nation. If Bush OKs it, the report goes to Congress for a vote.

The language suggesting that A-10s remain at Willow Grove was sought by Pennsylvania Sens. Rick Santorum and Arlen Specter. They sent the BRAC's chairman, Anthony Principia, a letter on Aug. 30 "respectfully" suggesting just that step.

"It's a huge victory for Philadelphia," said Gov. Rendell's press secretary, Kate Philips.

But she added, "I think it's way too early to predict what will happen with Willow Grove."

Daniel J. McCaffrey Jr., cochairman of the military affairs committee of the Suburban Horsham Willow Grove Chamber of Commerce, said that even if the BRAC report is approved, revisions may be "politically handled" in future defense legislation.

The state has waged an all-out fight to save Willow Grove and about 1,200 full-time jobs there.

Under the Pentagon-proposed, BRAC-approved plan, the existing Navy and Marine units there would be transferred to other bases.

What Rendell battled over was the future of the 111th Fighter Wing. He successfully argued in federal court that as a Pennsylvania National

Guard unit - not under federal control - it could not be closed without state approval.

So BRAC voted last month to strike the recommendation to deactivate the unit, but approved the Pentagon proposal to transfer three of the unit's A-10s and retire a dozen others.

Rendell, who has suggested the state take over the base, said he would not allow the planes to be removed from the 111th, which has been activated for combat in Afghanistan and Iraq.

Santorum and Specter then pitched in with their letter to the BRAC chairman, which said that having a flying unit without planes was "unwise."

"We respectfully request that you include language (attached) in your report directing the Secretary to use all available A-10 aircraft and provide A-10 aircraft to the 111th Fighter Wing," they wrote.

BRAC apparently agreed.

It also suggested the "enclave" for the 111th be sufficient to support "flight operations" and be "compatible with joint use of the former Naval Air Station as a civilian airport."

But local officials are opposed to the base becoming a nonmilitary air facility.

A small portion of the base property would also be used to consolidate existing Army Reserve units in one location.

Court Order Puts A-10s At Risk

Hartford Courant (Hartford, CT)

Lynne Tuohy
September 10, 2005

NEW YORK -- The future of Connecticut's Air National Guard fighter planes remained uncertain Friday after the U.S. 2nd Circuit Court of Appeals issued an emergency order that again left the A-10 Thunderbolts vulnerable to being transferred out of state.

The three-judge panel lifted an injunction issued by a federal judge in Connecticut that had barred the Base Closure and Realignment Commission from including removal of Connecticut's planes in the voluminous recommendations it forwarded to President Bush about 7:30 p.m. Thursday.

The recommendation to transfer the planes of the 103rd Fighter Wing is now before Bush, who has until Sept. 23 to send the package back to BRAC for reconsideration, or to forward it to Congress for action. He cannot make changes to what has been termed in legal arguments an "all or nothing" proposition. Bush has said in the past he will forward the recommendations to Congress.

The appeals court judges did not base their ruling on the merits of Attorney General Richard Blumenthal's claims that BRAC "acted lawlessly" in not consulting and receiving the approval of Gov. M. Jodi Rell before making dramatic changes to the Air Guard unit she commands.

Instead, the court ruled on procedural grounds, saying there was no final judgment to appeal, as the BRAC process is ongoing.

"Since no final action has yet taken place, the harm alleged by [Connecticut] has not occurred," the court stated, in a two-page opinion issued just hours after the court held an emergency, half-hour hearing Friday morning.

After that hearing the judges deliberated for 10 minutes and ruled from the bench that they would grant the federal government's request for an emergency stay.

Blumenthal late Friday said he, Rell and others would confer over the weekend to decide whether to appeal the emergency stay to the U.S. Supreme Court, which seldom upsets emergency orders issued by the appeals courts.

"In my view it's a temporary setback in a skirmish," Blumenthal said, after the ruling was announced. "The real battle will be very hard-fought, and we're prepared."

The lawsuit filed by Blumenthal in U.S. District Court in Hartford remains, absent the preliminary injunction issued Wednesday by U.S. District Judge Alfred V. Covello. The Second Circuit appellate judges, who peppered lawyers for both sides with questions, almost seemed to invite further challenge.

"We note the state of Connecticut may have an opportunity to contest the removal of the aircraft, when indeed the action becomes final and the aircraft are in danger of imminent seizure," their opinion states.

The opinion included the acknowledgement by Justice Department lawyer Douglas Letter that the government cannot later claim Connecticut officials should have made their case sooner, before the BRAC recommendations were finalized by Congress.

The appeals court order capped three days of heady litigation, including the federal government's unsuccessful request to the U.S. Supreme Court Thursday for an emergency stay.

The appeals court ruling came after the judges, particularly Judge Rosemary S. Pooler, peppered Letter with questions that conveyed skepticism about the way BRAC dealt with the Connecticut squadron.

Letter argued that the BRAC process is insulated from judicial review by Congressional design, a notion largely upheld in a 1994 U.S. Supreme Court ruling. Pooler asked Letter at what stage Rell could vindicate her right to be consulted before a National Guard unit under her command is altered. Twice, Letter began his answer with the caveat, "If ever..." Pooler cut him off.

"I don't want to hear the `if,'" she said.

Blumenthal argued that the BRAC recommendation clashed with a federal statute that requires Rell to consent to any change in the "branch, organization or allotment" of a National Guard unit. This has engendered a semantic debate, with Justice Department lawyers arguing

that the BRAC recommendation doesn't disrupt personnel, it just takes away planes the federal government owns.

Covello had agreed with Blumenthal that the statute requiring Rell's approval does come into play, because seizure of the planes leaves nearly 400 Air National Guard employees who either fly or maintain the aircraft without work.

"The base closings statute is a self-contained statute," Letter said. "What the governor is saying is, let's ruin that."

Pooler at one point called the BRAC statute "impenetrable," and challenged Letter to define whether an "element" - as the term is used in the statute - was a person or a plane.

The ensuing repartee seemed more like a comedy routine, drawing the laughter of lawyers in the courtroom whose cases had been bumped back due to the emergency hearing. Pooler rattled off other ambiguous terms in the BRAC statute, including "function" and "unit."

"Moving the planes is a function," Letter explained. "That's covered by the statute. The unit remains there."

"The unit meaning the people who would fly the planes if there were planes?" Pooler dryly asked.

Judge Richard J. Cardomone questioned Blumenthal on why the state couldn't seek relief at some later date, such as when an attempt was made to move the planes, or even afterward. Blumenthal replied that the state already was being harmed, both through BRAC's disregard for Rell's authority and through misapplication of BRAC's own laws by planning to seize planes but not realign or close the base.

"There may be a later time when there could be judicial review, but the appropriate time is now," Blumenthal said. Cardemone disagreed.

After the court's ruling, Blumenthal seized on what he described as the government's concession to temper the loss.

"The good news is, the government has conceded this [case] will be reviewable at some point," he said.

118th wing is on the closing list sent to White House

The Associated Press State & Local Wire
(Washington DC)
Jonathan M. Katz
September 9, 2005

Commissioners sent their recommendations for military bases to President Bush on Friday, a list that included plans to strip Nashville's 118th Airlift Wing of its aircraft.

The recommendation comes a day after a federal appeals court struck down a temporary injunction that would have barred the recommendation.

Gov. Phil Bredesen is continuing a lawsuit to halt the move. The suit argues that it is against the law for an Air National Guard unit to be relocated or withdrawn from a state without consent or approval from the governor.

The decision to move C-130 transport planes currently assigned to the Guard wing is based on a Defense Department recommendation that the planes, "will better support national security requirements in other locations and is not conditioned upon the agreement of the state," the report language said.

The planes would be moved to bases in Illinois and Kentucky. A medical unit would be moved to Texas.

A federal judge had ordered a temporary injunction against the measure. But on Thursday, the appeals court ruled that allowing the injunction to stand is "fundamentally antithetical to the proper operation of the BRAC."

"The 118th's been very busy with the relief effort down in the Gulf Coast area," said retired Col. Don Deering, executive director of the Tennessee National Guard Association, who

said morale on the base was low but hopeful. "We don't think it's too late," he said.

State officials said the Department of Justice appealed the ruling. As it stands, the 118th can be included in the report that's scheduled to be reviewed by Bush soon.

The report also recommended the addition of several KC-135 tankers to the Air National Guard base in Knoxville realigned from elsewhere in the country, and the reconfiguration of several Guard and reserve posts in the state.

Bush can recommend individual changes to the list or approve it in full. Congress could then vote the entire list up or down, but may not modify it.

Other states that have gone to court over the military realignment are Illinois, Massachusetts, Missouri, New Jersey and Pennsylvania.

Base Panel Sticks to Plan Hitting Ventura County

The Daily News of Los Angeles (Los Angeles, CA)
Lisa Friedman
September 9, 2005

After a last-minute legal fight, the Federal Base Closure Commission submitted its recommendations to the White House on Thursday for overhauling 837 military bases.

The list includes plans to shift thousands of workers from Point Mugu to China Lake and to downsize a Marine base in Barstow.

The list was delivered after a day of intense legal challenges by lawmakers in several states concerned about closures, as well as a last-minute bid from the White House to protect the commission's recommendations.

The commission was legally required to send its recommendations to President George W. Bush on Thursday.

Bush is widely expected to approve the document by a Sept. 23 deadline. After that, the recommendation becomes binding within 45 legislative days unless Congress passes a joint resolution disapproving the list.

While the BRAC process has several detractors - including New Jersey Democrat Jon Corzine, Mississippi Republican Sen. Trent Lott and a handful of Southern California lawmakers concerned about local bases - few expect Congress to mount serious opposition.

"I'm sure there will be a disapproval effort," said Rep. Brad Sherman, D-Sherman Oaks. But, he added, "There may be politics involved that will protect the report."

Corzine opposes the Pentagon and the commission's decision to close Fort Monmouth in his home state.

In all, the list will identify 62 major and 775 smaller installations nationwide for closure or mission changes. By and large, California leaders have said the Pentagon and the commission spared the state, particularly compared with previous rounds of base closures.

Naval Base Ventura County took the biggest hit when the nine-member commission approved the Pentagon's plan to transfer possibly more than 2,000 jobs and warfare systems missions to Naval Air Weapons Station China Lake in Ridgecrest.

The Pentagon recommended offsetting that loss by moving jobs from the Naval Surface Warfare System in Norco to Point Mugu, but the commission vetoed that idea.

But with the brunt of the Pentagon cuts focused in the Northeast, state officials estimate California will take a relatively small blow from job cuts of 170,000 nationwide in this round of base closures.

In four earlier rounds from 1988 to 1995, the state lost more than two dozen bases and about 93,000 jobs.

Sherman and Reps. Elton Gallegly, R-Thousand Oaks, both said they will likely vote against the recommendations, and Sen. Barbara Boxer also said she will vote against it, arguing the Pentagon should not be closing bases during wartime.

Sen. Dianne Feinstein issued a statement saying she will wait to hear the president's decision and will "closely review the final recommendations once they come before the Senate."

Opinions/ Editorials

Additional Notes

Rep. Allen Concurs With Criticisms Of 2005 Base Closure Round Cited By BRAC Commission In Its Final Report

US Fed News
September 9, 2005

Rep. Thomas H. Allen, D-Maine (1st CD), issued the following press release:

Rep. Tom Allen today concurred with the criticisms of the 2005 base closure round cited by the Base Realignment and Closure Commission (BRAC) Commission in its final report, issued last night. The Commission faulted the Department of Defense (DOD) for making infrastructure decisions prior to conducting a "comprehensive review of the underlying strategic issues that is to be set forth in the [2006] Quadrennial Defense Review [which] may have better informed and assisted the Commission in making its final recommendations."

"From the time Defense Secretary Rumsfeld proposed it, I have consistently opposed the 2005 base closure round on the grounds that it presumptively puts infrastructure decisions before force structure decisions," Representative Allen said.

Representative Allen noted that in December 2001 he voted against the current BRAC round. At the time, he stated that with "uncertainty

about our future military needs in the new security environment, I believe that this is not the right time to add a new layer of uncertainty to our military communities in Maine by approving a new base closure round." He has repeated this assertion over the years, most recently during House debate on defense authorization in May 2005, when he said, "If we close irreplaceable infrastructure now, before we first reach consensus on an overall defense and homeland security strategy, we jeopardize our nation's security."

Representative Allen disagreed with the Commission's decision to close the Brunswick Naval Air Station. He noted that the Commission appeared to deviate from its own charter. The Commission's report states that "it was clear from the Commission's examination of the DoD 2005 BRAC list that the historical goal of achieving savings through eliminating excess capacity was not always the primary consideration for many recommendations" and later adds "the Commission's assessment of the selection criteria and Force Structure Plan took place in the context of a balance between the goals of realizing savings and rationalizing our military infrastructure to meet the needs of future missions."

"The Commission justified closing Brunswick merely in order to 'reduce excess capacity and result in significant savings,' despite its directive to balance goals, and despite the numerous citations from combatant commanders on Brunswick's strategic value," Representative Allen said. "This shows me how wrong and unsubstantiated this decision was."

Representative Allen agreed with the Commission's observation that DOD failed to integrate properly homeland defense roles and Department of Homeland Security functions into its BRAC analysis. DOD cited a homeland defense mission for the Brunswick Naval Air Station, yet the comments of at least one Commissioner indicate that the Commission struggled with whether DOD adequately defined the homeland defense requirements.

"The Maine Delegation had argued to both DOD and the Commission for retaining Brunswick on the grounds that the timing of this BRAC put strategic assets at risk before our evolving homeland and maritime defense strategies could be implemented," Representative Allen said.