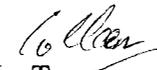


July 22, 2005

Ms. Colleen Turner,
Sr. Analyst BRAC Commission
2521 Clark Street, Suite 600
Arlington, VA 22202


Ms. Turner,

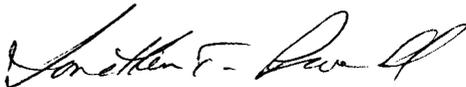
It was good talking to you yesterday. We're looking forward to our visit with Mr. Principi Tuesday. We've been told Congressman Gibbons will be in attendance.

We are enclosing the additional material we would like you to review and deliver to Mr. Principi and the Commission for consideration when reviewing the recommendation for the realignment of the Reno-Tahoe IAP/AGS. We plan on providing this documentation to Mr. Principi on Tuesday but if you find it appropriate to provide this to Mr. Principi prior to Tuesday, per our conversation, that is fine with us.

The first enclosure is a letter from the Clark County Sheriff, Chief of the Las Vegas Metropolitan Police Department. The second enclosure is a letter from the Nevada Fire Chiefs Association. The third enclosure is a recalculation of the Reno-Tahoe IAP/AGS MCI and military value rating. The fourth enclosure is a supplementary legal opinion from the Nevada Staff Judge Advocate regarding equipment obtained by the Nevada Air Guard through Congressional add-ons. The fifth and final enclosure is a copy of the power point presentation to be delivered to Mr. Principi on Tuesday. A compact disc with electronic recordation of these documents is also enclosed.

Thank you for your assistance in this matter; we realize your time is limited and valuable.

Sincerely,



Colonel Jonathan T. Proehl
Commander, 152 Airlift Wing



Las Vegas Metropolitan Police
Department
400 Stewart Avenue
Las Vegas, Nevada 89101-2984
(702) 795-3111

BILL
YOUNG,
Sheriff

July 11, 2005

To Whom it May Concern:

An essential asset to the law enforcement agencies and citizens of Nevada in the event of a major incident are the eight C-130 Hercules transport aircraft of the Nevada Air National Guard. It is these aircraft which provide the rapid mobility of National Guard assets throughout the state.

Nevada is a large state with its population centers spread throughout. The only way to effectively move the assets of the National Guard over these great distances, and in a timely manner, is by aircraft. The C-130s provide this capability.

In addition to the transportation of National Guard equipment or personnel, these aircraft can transport civilian personnel, equipment and other items as needed, such as the new portable emergency care center the state purchased. The C-130s have been used in exercises and are part of contingency planning for the transport of the Strategic National Stockpile, SNS. The aircraft provide the mobility for Task Force One, a Nevada interagency emergency response team tasked with large scale disaster support. The C-130s also serve as the platform for video/thermal imaging capability.

Cargo aircraft such as the C130s are available in other States, however, it is essential that the eight aircraft of the Nevada Air National Guard remain an organic asset to the Governor of Nevada and the Department of Emergency Management. When the need arises for the rapid transportation of personnel and material within Nevada, the aircraft should be available from the onset of the crisis, not after a request is made to a neighboring state for their aircraft, which may be required by the governor to deal with the same or other crises.

The C-130 aircraft of the Nevada Air National Guard represents an essential element of the Nevada National Guard, without which many of the contingencies this state may face might not be dealt with in a timely efficient manner.

Sincerely,

BILL YOUNG, SHERIFF

BY:dk

Partners with the Community





June 9, 2005

2005 Defense Base Realignment and Closure Commission
Attention: Chairperson
2521 South Clark Street, Suite 600
Arlington, Virginia 22202

Re: Nevada Air National Guard

Honorable Chairperson and Commission Members,

I am writing you on behalf of the membership of the Nevada Fire Chiefs Association in regards to recent news that the Defense Base Realignment and Closure Commission has made a recommendation that C-130 aircraft currently assigned to the Nevada Air National Guard be reassigned to another state. In light of the community of interest served by our Association, including Nevada's fire service and all the communities we protect, we want to express our utmost concern and strongly urge the Commission's reconsideration of this decision.

The Nevada Air National Guard is a vital asset to our state in terms of security, the safety of our communities and in support of local government's ability to effectively respond to a major emergency or disaster scenario. As it relates to the fire service, the current mission of airlift and reconnaissance, as well as the developing firefighting capabilities of our Air Guard, is irreplaceable. The Air Guard's infrared camera system has already become an important tool used by incident commanders on major wildland fires. The mobile air firefighting system that is a joint effort between the Air Guard and the USDA Forest Service will help offset the loss of most federally contracted air tankers that served the western states during wildland fire season.

In light of this State's need to be prepared for homeland security, the Air Guard is fulfilling a critical role in Nevada and the western states, relative to airlift capabilities for mass medical supplies and timely deployment of the 92nd Civil Support Team (WMD) or the FEMA Region-9 Urban Search and Rescue Team of Las Vegas, among other capabilities. Taking into account the extraordinary effort the Nevada Air National Guard has put forth to establish protocols and working relationships with an extensive list of local, state and national entities for the sake of protecting communities, it seems unfathomable to incapacitate this unit of the Air Guard.

As you know, the Governor can activate the Guardsmen at any time, but that a Presidential disaster declaration is required to call up active duty resources to assist a state that is in crisis. This process can take days from the time an event occurs. Nevada's perennial occurrence of major wildland fires, our history of flooding and the increasing threat of terrorism underscores the importance of retaining all of our current Air Guard assets in Nevada.

2005 Defense Base Realignment and Closure Commission
June 9, 2005
Page Two

The Nevada Fire Chiefs consider the mission of the Nevada Air National Guard, coupled with the immediate availability of the C-130 aircraft, as extremely valuable to the people of Nevada. As history would attest of this Air Guard unit, the Battle Born State of Nevada stands ready to support the nation in this post 9-11 era. We again urge you to reconsider your recommendation and maintain these extremely important air resources in the State of Nevada where the dedicated team of the Nevada Air National Guard can continue to provide the high standard of services we have come to depend upon.

Please feel free to contact me if I can be of any assistance.

Sincerely,



Roy Slate
President, Nevada Fire Chiefs Association

/j

cc: The Honorable Kenny Guinn, Governor, State of Nevada
The Honorable Harry Reid, United States Senate
The Honorable John Ensign, United States Senate
The Honorable Shelley Berkley, United States House of Representatives
The Honorable Jim Gibbons, United States House of Representatives
The Honorable Jon Porter, United States House of Representatives

Re-calculation of Reno-Tahoe IAP/AGS MCI

Summary of Inconsistencies	Maximum Points Available	BRAC Points Given	Recalculated Points	Difference
Current/Future Missions 46%				
Proximity to DZ/LZ	14.72	3.08	14.72	11.64
Proximity to Low Level Routes Supporting Mission	13.98	4.34	13.98	9.64
			MCI Change	9.79
Condition of Infrastructure 41.5%				
Airspace Attributes of DZ/LZ	8.30	1.81	6.23	4.42
			MCI Change	1.83
Contingency/ Mobilization/ Future Forces 10%				
Buildable Acres for Air Ops Growth	1.96	0	0.12	0.12
			MCI Change	0.01
Cost of Ops/Manpower 2.5%				
No Inconsistencies	2.50	0	0	0
Increase to Reno-Tahoe IAP/AGS Airlift MCI				11.64
BRAC Assessed MCI				40.51
Resulting Airlift MCI				52.15

These recalculations were based on inclusion of data that was not considered by the BCEG due to the structuring of these questions in the data calls.

•Ref: 1248

➤ This data was not allowed to be considered because the Reno-Tahoe IAP/AGS did not own the landing zones or drop zones and were thus given no value.

•Ref: 1246

➤ Nevada and northern California have been surveyed as low-altitude tactical navigation (LATN) areas. This places the Reno-Tahoe IAP/AGS at the center of one of the largest C-130 LATN area in the continental U.S.

•Ref: 1249

➤ This data was not allowed to be considered because the Reno-Tahoe IAP/AGS did not own the landing zones or drop zones and were thus given no value.

•Ref: 1205.2

➤ This data was not allowed to be considered because the BCEG failed to take into account the land acquired through a land agreement.

These recalculations result in an increase to the Reno-Tahoe IAP/AGS Airlift MCI from the published 40.51 to 52.15. With this increase in Airlift MCI, and assuming all other unit scores remain consistent, the Reno-Tahoe IAP/AGS military value rating increases to 46 from 101.

ADDITIONAL LEGAL CONSIDERATION
REGARDING BRAC RECOMMENDATIONS:
CONGRESSIONAL ADD MONEY

In its prior submission, the 152nd Airlift Wing identified certain procedural and substantive legal issues in the Base Realignment and Closure process. Those legal issues included the Constitutional and statutory prohibition against relocating a unit of the National Guard without the approval of the Governor of the state, the statutory violation in failing to involve the Governors and/or the State Adjutant Generals in the decision making process, the violation of the rule that a State Guard must be left with the capacity to respond to local emergencies {as directed by the Supreme Court in the case of Perpich v. Dept of Defense, 496 U.S. 334, 110 S. Ct. 2418 (1990)} and the violation of policy considerations such as the Total Force Concept. Many of those same legal concerns were also raised in the legal opinion prepared by Major Daniel Cowhig, Deputy General Counsel to the Defense Base Closure and Realignment Commission. See Discussion of Legal and Policy Considerations Related to Certain Base Closure and realignment Recommendations, Dan Cowhig, July 14, 2005.

Maj Cowhig pointed out that the “Base Closure Act does not grant the Commission the authority to change how a unit is equipped or organized.” Cowhig opinion, pg. 10. In addition, Maj Cowhig advised the Commission that:

Further, Congress alone is granted the authority by the Constitution to equip the Armed Forces of the United States. Congress did not delegate this power to the Commission through the language of the Base Closure Act. Where Congress has authorized the purchase of certain aircraft with the express purpose of equipping the Air Guard of a particular state or territory, the Commission may not approve any recommendation action that would contravene the intent of Congress.

Cowhig opinion, pages 17-18, emphasis added.

Maj Cowhig has identified that the Constitution specifies the role of Congress *vis a vis* the Executive Branch, and only Congress has the authority to authorize the expenditure of funds to equip the military services. If Congress has specifically directed that funds shall be spent on a particular piece of military equipment, including military equipment owned by a state National Guard unit, it is impermissible for the Executive branch to override that clear Congressional direction. Additionally, Maj Cowhig has highlighted the fact that the Base Closure Act has certain specific statutory responsibilities, and that many of the DoD recommendations exceed the scope of the Base Closure Act.

While Maj Cowhig’s opinion addresses specifically the purchase of aircraft with Congressional add-on money, the same principle applies to the purchase of equipment with Congressional add-on money to be applied to specific aircraft. The airplanes currently belonging to the Nevada Air National Guard have specialized equipment that

has been purchased at the specific direction of Congress with Congressional add-on money.

Since fiscal year 2002, Congress has authorized and directed that \$40,750,000 be spent on specialized equipment for the aircraft belonging to the Nevada Air National Guard.

All 8 of the C-130s belonging to the Nevada Air National Guard are (or will be prior to September 05) installed with APN-241 Low Power Radar. Since FY 2002, Congress authorized and directed that \$8,000,000 be spent for the installation of APN-241 radar on the aircraft belonging to the Nevada Air National Guard. Four of the eight aircraft are installed with Large Aircraft Infrared Counter Measure (LAIRCM) at a cost of \$20,000,000. Congress authorized and directed that \$12,000,000 be spent on Ku Band Antennae and Line of Sight Data links. Finally, Congress authorized and directed that \$750,000 be authorized and spent for dual auto pilot for the C-130s.

The DoD recommendation to relocate the Reno Air National Guard aircraft to another installation, when that aircraft has received equipment as a result of Congressional direction, violates the principle that only Congress has the authority to equip the military.

BRAC 2005 RESPONSE

Reno-Tahoe IAP/AGS



Ready - Reliable - Relevant



Re-calculation of Reno-Tahoe IAP/AGS MCI

Summary of Inconsistencies	Maximum Points Available	BRAC Points Given	Recalculated Points	Difference
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Buildable Acres for Air Ops Growth	1.96	0	0.12	0.12
Cost of Operations 2.5%				
No Inconsistencies	2.50	0	0	0
Increase to Reno-Tahoe IAP/AGS Airfile MCI				
BRAC Assessed MCI				40.51
Resulting Airfile MCI				52.15



U.S. AIR FORCE



DCN 5255

These recalculations were based on inclusion of data that was not considered by the BCEG due to the structuring of these questions in the data calls.

•Ref: 1248

➤ This data was not allowed to be considered because the Reno-Tahoe IAP/AGS did not own the landing zones or drop zones and were thus given no value.

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➤ Nevada and northern California have been surveyed as low-altitude tactical navigation (LATN) areas. This places the Reno-Tahoe IAP/AGS at the center of one of the largest C-130 LATN areas in the continental U.S.

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U.S. AIR FORCE

OVERVIEW



- **Legal Opinion**
- **Recruiting**
- **Homeland Defense/Security**



U.S. AIR FORCE

Procedural and Substantive Legal Issues in the BRAC Process and Recommendations



DCN 5255

The BRAC recommendation to relocate the 152AW violates:

- the U.S. Constitution
- several federal statutes
- the direction of the U.S. Supreme Court

By focusing on federal active duty needs and ignoring the state role of the National Guard, the Department of Defense failed to acknowledge and recognize the unique, hybrid nature of the National Guard.



U.S. AIR FORCE

Procedural and Substantive Legal Issues in the BRAC Process and Recommendations



DCN 5255

Neither the Governor of Nevada, nor the Adjutant General of Nevada was consulted with regard to the BRAC recommendation to realign the Reno-Tahoe IAP/AGS.

- See Governor's letter**
- See legal opinion Nevada Staff Judge Advocate**



Ready - Reliable - Relevant

Procedural and Substantive Legal Issues in the BRAC Process and Recommendations

U.S. AIR FORCE



DCN 5255

Nevada Air National Guard modified its C-130 aircraft using Congressional adds to support assigned missions of airlift and Scathe View.

LAIRCM (Large Aircraft Infrared Counter Measure) - \$20 million

- AN-241 low-power radar - \$8 million
- Ku-Band antennae and line-of-site data links - \$12 million
- Dual auto-pilot (unique in the C-130 fleet) - \$750 thousand

•Total: \$40,750,000



U.S. AIR FORCE



Recruiting

BRAC Principle #1: Recruiting and Retention

- The Nevada Air National Guard has manning to meet all current mission requirements and the ability to recruit to 12 or 16 aircraft.
- Additionally, Nevada Air Guard is the only C-130 Guard unit west of the Mississippi to meet the 97% manning threshold set by the National Guard Bureau.
- Negative Impact on Recruiting and Retention already demonstrated.



U.S. AIR FORCE

Homeland Security/Defense Issues



**National Security Strategy: Homeland Defense
nation's number one priority.**

- BRAC calculations did not address Nevada's unique requirements and location for homeland defense.**
- Eliminating C-130s from this state absolutely cripples its ability to respond to any large-scale emergency.**
- Geographically large state: annual flooding, large-scale wildfires, lies on major fault lines, the largest dam in the nation, a unique tourist destination, special consideration must be given to Nevada.**

152 Airlift Wing/Nevada Air National Guard

**Thank you for your time.
Questions?**