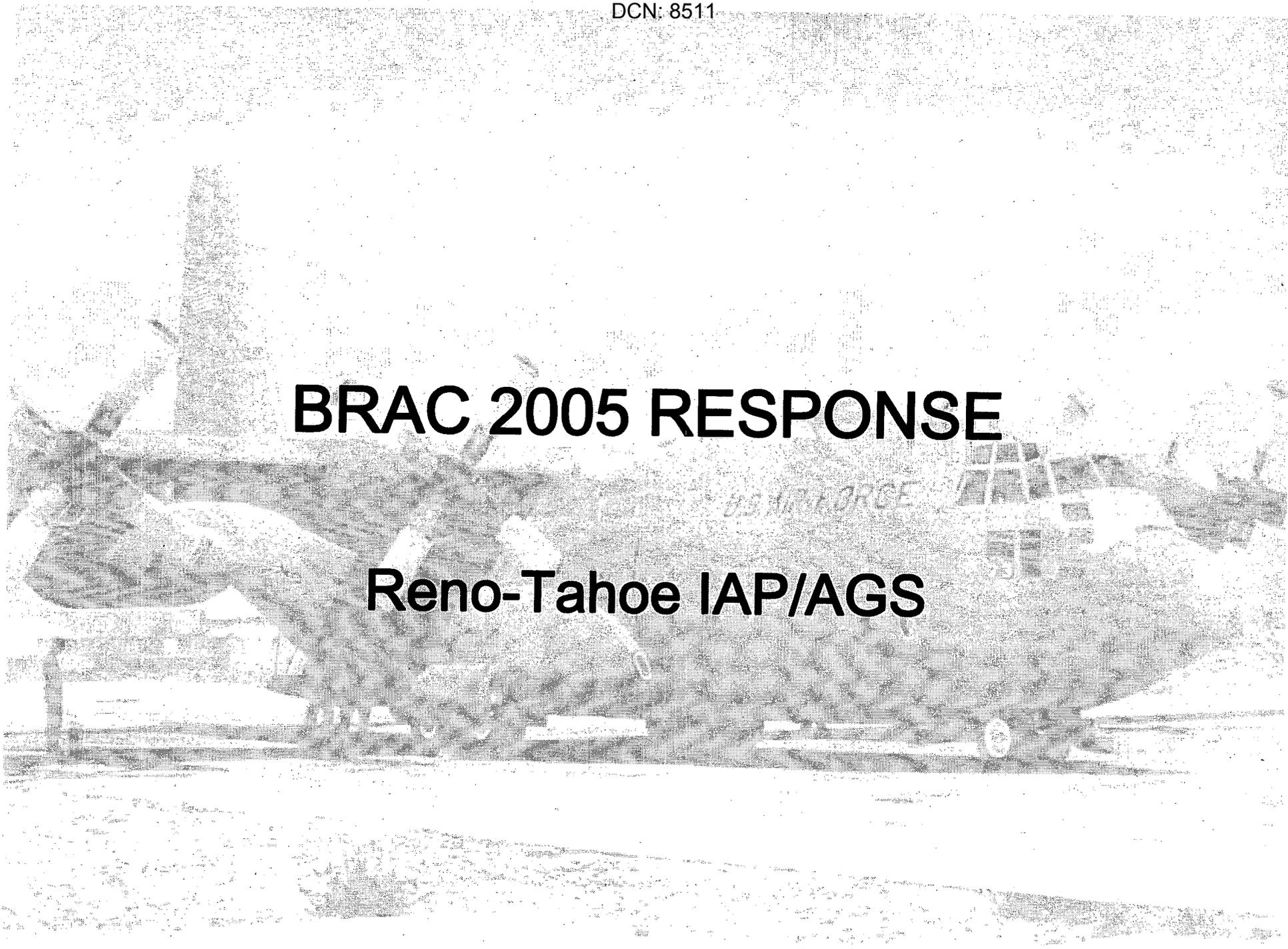


# BRAC 2005 RESPONSE

## Reno-Tahoe IAP/AGS



*Ready - Reliable - Relevant*



**U.S. AIR FORCE**

# OVERVIEW



- **Reno's Recalculation**
- **Unique Missions**
- **Costs**
- **Legal Opinion**
- **Recruiting**
- **Homeland Defense/Security**

*Ready - Reliable - Relevant*



U.S. AIR FORCE

# Re-calculation of Reno-Tahoe IAP/AGS Military Capability Index



## ■ Current and Future Missions (46%)

■ MCI increase of 9.79

- DZ/LZ
- Low-level mission

## ■ Condition of Infrastructure (41.5%)

■ Increase of 1.83

- Airspace Attributes of DZ/LZ

## ■ Contingency/Mobilization/Future Forces (10%)

■ Increase of .01

- Build-able Acres for Air Ops Growth

## ■ Summary: MCI 52.51 and Military Value of 46



**U.S. AIR FORCE**

# Unique Mission Capabilities

## Scathe View, Senior Scout, Fire Fighting



- The Scathe View mission is a capability that provides a live television picture and direct communication to the soldiers on the ground. The 152<sup>nd</sup> AW is the only SV unit in the Air Force.
- Senior Scout is a signals collection capability unique to the Air National Guard.
- Scathe View used in support of fire fighting efforts is a unique application of a military capability used to support a state and regional mission.



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# Cost Issues

- Eliminating the entire aviation element at Reno-Tahoe IAP/AGS incurs unaddressed costs of \$96M in 2005 dollars over a 20 year period.
- Significant departure from DoD's purported cost savings of \$22.7M over the same period.
- Other unidentified costs result from re-aligning the Aerial Port Flight and the Base Fire Department also incurred.



**U.S. AIR FORCE**

## **Procedural and Substantive Legal Issues in the BRAC Process and Recommendations**



**The DoD/Air Force 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**



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

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



U.S. AIR FORCE

## Procedural and Substantive Legal Issues in the BRAC Process and Recommendations



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)**

- \$12 million

•AN-241 low-power radar - \$5 million

•Ku-Band antennae and line-of-site data links

- \$12 million

•Dual auto-pilot (unique in the C-130 fleet)

- \$750 thousand

•**Total: \$29,750,000**



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.



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## Recruiting cont.

- The average experience level of the personnel in the 152 AW affected by the DoD/Air Force recommendation is 13.7 years.
- A dilution or outright loss of this experience as a result of the DoD/Air Force recommendations would be unrecoverable.



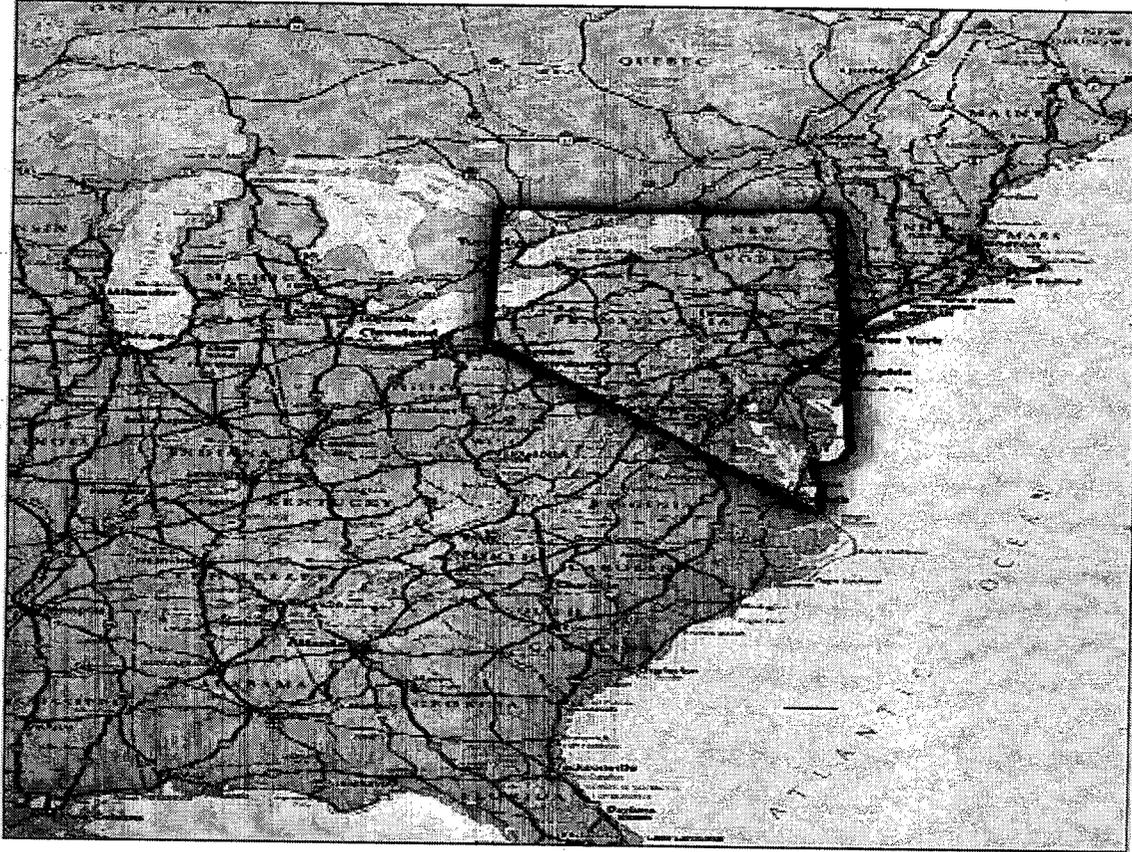
**U.S. AIR FORCE**

# Homeland Security/Defense Issues



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

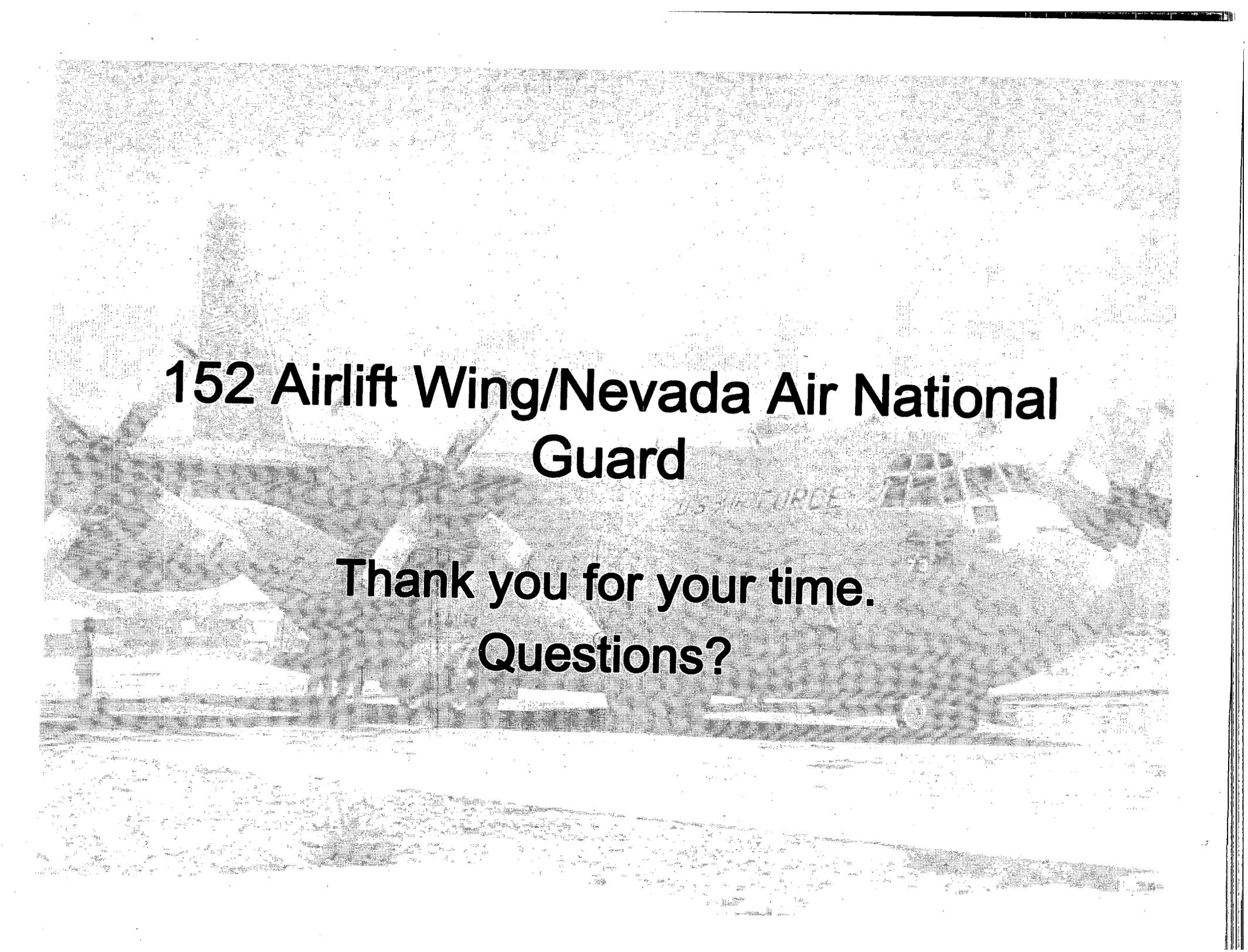
- **DoD/Air Force calculations did not address Nevada's unique requirements and location for homeland defense.**
- **Eliminating C-130s from this state absolutely cripples its ability to respond to any large-scale emergency.**
- **Geographically large state: annual flooding, large-scale wildfires, lies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



**ACTUAL LAND SIZE OF NEVADA**







**152 Airlift Wing/Nevada Air National  
Guard**

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

**PROCEDURAL AND SUBSTANTIVE LEGAL ISSUES  
IN THE BRAC PROCESS AND RECOMMENDATIONS**

The BRAC recommendation to relocate the 152AW violates both the specific language, as well as the intent, of the U.S. Constitution, several federal statutes, and 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.

**1. The United States Constitution and federal statutes:**

The National Guard is a hybrid Federal and State organization, and has been since the inception of the country. The United States Constitution states, at Article I, Section 8 (known as the "militia clause"), that the Federal Congress will provide for organizing, arming, and disciplining, the militia, but specifically reserves "...to the state's respectively, the appointment of officers, and the authority of training the Militia according to the discipline prescribed by Congress." In recognition of this constitutional basis that the militia (now National Guard) is a hybrid Federal-State entity, the Federal Congress has passed several statutes to ensure that the Guard is treated in a constitutional fashion, and to ensure that the National Guard can carry out its dual roles of serving as a reserve component of the federal military and as the militia of each state.

One statute recognizes the authority of the Governor on the specific issue of the relocation of Guard units. Title 10 USC 18238 states:

A unit of the Army National Guard of the United States or the Air National Guard of the United States may not be relocated or withdrawn under this chapter without the consent of the Governor of the state or, in the case of the District of Columbia, Commanding General of the National Guard of the District of Columbia.

This plainly worded statute clearly requires that a Governor provide his or her prior consent before relocating a unit of the Air National Guard and would prevent, and in this instance, the relocation of the 152<sup>nd</sup> Airlift Wing from the State of Nevada. The Governor of Nevada, Kenny Guinn, has expressed his concern about this in a letter to Secretary Rumsfeld, a copy of which is located at Exhibit " " in this package.

Another federal statute was violated in the BRAC recommendation process. 10 USC Section 10501(b) requires that the National Guard Bureau serve as a "channel of communication" between the Department of the Army and the Department of the Air Force and the several states on matters pertaining to the National Guard. This statute recognizes the dual responsibilities of each state's Guard and is designed to ensure that the interests of each state would be adequately considered and protected. NGB failed to fulfill this statutory responsibility, in that no information on the BRAC process was provided to the Governors of the states (or to the Adjutant Generals of any states) by the Department of Defense during the BRAC recommendation process. This prohibited the states and Governors from being actively involved in the DoD recommendation, contrary to 10 USC 10501(b).

## 2. The United State Supreme Court.

The U. S. Supreme Court, in the case of *Perpich v. Department of Defense*, 496 U.S. 334, 110 S.Ct. 2418 (1990), also recognized the dual role of the National Guard and the legal right and responsibility of the Governor.

*Perpich* recognized the Governor's right to veto certain federal training missions if those federal training missions interfered with the state guard's capacity to respond to local emergencies. Sections (b) and (d) of 10 USC 12301 prohibit the Secretary of Defense from ordering "units and members of the Army National Guard of the United States or the Air National Guard of the United States" to active duty "without the consent of the governor of the State...". The Montgomery Amendment {now codified at 10 USC 12301(f)} was passed by Congress to allow state guard soldiers and airmen to train overseas without obtaining the consent of the Governor. The Montgomery Amendment states:

The consent of a Governor described in subsections (b) and (d) may not be withheld (in whole or in part) with regard to active duty outside the United States, its territories, and its possessions, because of any objection to the location, purpose, type, or schedule of such active duty.

While the U.S. Supreme Court upheld the Montgomery Amendment in the *Perpich* case, the Court recognized that the Amendment only deprived the Governor of certain veto powers, while the Governor retained the rest. The Court upheld this Amendment because of its narrow application, and the fact that depriving the Governor of these specific veto powers would not effect the Governor's ability to respond to local emergencies. The Supreme Court stated that a Governor retains the veto power if federal training missions substantially impact the Governor's ability to respond to local emergencies. The U. S. Supreme Court stated:

The Minnesota Unit, which includes about 13,000 members, is affected only slightly when a few dozen, or at most a few hundred, soldiers are ordered into active service for brief periods of time. Neither the state's basic training responsibility, nor its ability to rely on its guard and state emergency situations is significantly effected. Indeed, if the federal training mission were to interfere with the state guard's capacity to respond to local emergencies, the Montgomery Amendment would permit the Governor to veto the proposed mission.

*Perpich* at 351 (emphasis added).

The Supreme Court has clearly stated that a state guard must be left with the capacity to respond to local emergencies. In this case, the complete removal of any air lift capacity for the State of Nevada has a drastic effect on the Governor's ability to respond to local emergencies (as argued elsewhere in this document). Thus, the BRAC's recommendation to relocate the only Air Guard Wing in Nevada violates the *Perpich* case.

### 3. Policy Considerations.

This particular BRAC recommendation also violates the 1973 Total Force Policy issued during Secretary of Defense Melvin Laird's term. That Total Force Policy was designed to involve a large portion of the American public by mobilizing the National Guard from its thousands of locations throughout the United States when needed. The Total Force Policy required that all active and reserve military organizations of the United States be treated as a single integrated force. The benefit of the Total Force Policy approach is to permit elected officials to have a better sense of public support or opposition to any major military operation. The Total Force Policy follows the intentions of the founding fathers for a small standing army complemented by citizen-soldiers. Again, the recommendation of BRAC that removes the entire airlift capacity of an entire state violates the Total Force Policy, a policy which has never been retracted.

### 4. Summary.

The DoD recommendation to eliminate all Air National Guard aircraft from the State of Nevada is contrary to the historical role of the National Guard as a hybrid state/federal entity. DoD failed to involve the State of Nevada in the process of making its recommendation (as is expected by 10 USC 10501), and this failure led to the DoD ignoring the Constitutional and statutory role of the State. The requirement of obtaining the consent of the Governor (as required by 10 USC 18238) was by-passed. By removing all Air Guard airlift capacity from the State of Nevada, the DoD recommendation inhibits the Governor of the State of Nevada from carrying out his responsibility to respond to local emergencies (contrary to the direction of the U.S. Supreme Court as revealed in the *Perpich* case).

Finally, Congress has recognized the importance of maintaining the strength of the National Guard. 32 USC 102 states, in part:

In accordance with the traditional military policy of the United States, it is essential that the strength and organization of the Army National Guard and the Air National Guard as an integral part of the first line defenses of the United States be maintained and assured at all times.

The DoD recommendation to eliminate all Air National Guard aircraft from the State of Nevada clearly effects the strength and ability of the Nevada Air National Guard to be an integral part of the first line defenses of the United States.



**STATE OF NEVADA MILITARY DEPARTMENT  
152<sup>nd</sup> OPERATIONS GROUP  
NEVADA AIR NATIONAL GUARD  
1776 NATIONAL GUARD WAY  
RENO, NEVADA 89502-4494**

**PH: (775) 788-4719      DSN: 830-4719**



26-Jul-05

MEMORANDUM FOR Mr. Anthony Principi, Chairman  
FROM: 152 AW

SUBJECT: Meeting Attendance

Members present for discussion on BRAC recommendations.

BG Cindy Kirkland, Adjutant General, State of Nevada  
BG Lawrence Cerfoglio, Commander, Nevada Air National Guard  
BG (Sel.) Mike Gullihur, Assistant Commander NVANG  
Col. Jon Proehl, Commander 152<sup>nd</sup> Airlift Wing NVANG  
Col. Frank Landes, Vice Commander, 152<sup>nd</sup> Airlift Wing, NVANG  
Lt. Col. Jim Cumings, ESSO, Nevada State HQ  
Lt. Col. Les Gonzalez, Commander, 152<sup>nd</sup> Intel Squadron, NVANG (Scathe View)  
Lt. Col. John Summers, Commander, Hawthorne Army Depot  
Lt. Col. Gary Turner, Commander 192<sup>nd</sup> Operations Support Flight Commander, NVANG  
Lt. Col. Chris Ultsch, 152<sup>nd</sup> Operations Group, NVANG  
CMS John Ternau, Nevada State Command Chief  
CMS Ray Lake, 152 Airlift Wing Command Chief  
Capt. Tom Funk 152 Maintenance Squadron CRF/OIC, NVANG  
Congressman Jim Gibbons, Congressman for the state of Nevada  
Mr. Giles Vanderhoof, Director Nevada Homeland Security Department  
Mr. Steve Robinson, Natural Resource and Rural Advisor for the Office of the Governor  
Mr. Bob Herbert, representing Nevada Senator Harry Reid  
Mr. Marc De La Torre, Regional Representative for Senator John Ensign  
Mr. Nick Vanderpool, representing Nevada Congressman Jim Gibbons  
Mr. Randolph Townsend, Nevada State Senator  
Mr. Floyd Edsel, former Adjutant General for Nevada  
Krys T. Barr, Executive Director, Reno/Tahoe International Airport

**ADDITIONAL LEGAL CONSIDERATION**  
**REGARDING BRAC RECOMMENDATIONS:**  
**CONGRESSIONAL ADD MONEY**

In its prior submission, the 152<sup>nd</sup> 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 \$5,000,000 be spent for the installation of APN-241 radar on the aircraft belonging to the Nevada Air National Guard. Congress authorized and directed that four of the eight aircraft be installed with Large Aircraft Infrared Counter Measure (LAIRCM) at a cost of \$12,000,000. 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.



## OFFICE OF THE GOVERNOR

KENNY C. GUINN  
Governor

June 2, 2005

The Honorable Donald Rumsfeld, Secretary  
Department of Defense  
1000 Defense, The Pentagon  
Washington, D. C. 20301-1000

Dear Secretary Rumsfeld:

The Department of Defense recommendations for the 2005 Base Realignment and Closure (BRAC) process included a recommendation to relocate the eight C-130 aircraft from the Nevada Air National Guard shutting down the 152<sup>nd</sup> Operations Support Flight, the 152<sup>nd</sup> Maintenance Group, the 152<sup>nd</sup> Aircraft Generation Squadron, the 152<sup>nd</sup> Maintenance Squadron, the 152<sup>nd</sup> Aerial Port Flight, and the firefighters associated with the 152<sup>nd</sup> Civil Engineering Squadron.

I am writing to advise you that as Governor of Nevada, I have great concern with the relocation of these units and federal law may prohibit the relocation of units of the Air National Guard without consent of the governor of the state. This is clearly outlined in Title 10, United States Code as follows:

**Title 10 USC 18238:**

"A unit of the Army National Guard of the United States or the Air National Guard of the United States may not be relocated or withdrawn under this chapter without the consent of the governor of the state or, in the case of the District of Columbia, the commanding general of the National Guard of the District of Columbia."

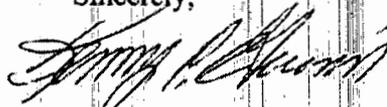
The recommended relocation of the units has not been coordinated with me, my Adjutant General or members of his staff. No one in authority in the Nevada Air National Guard had been consulted or even briefed about this recommended action before it was announced publicly. Further, the impact on homeland security appears to have been completely absent from recommendation by the Department of Defense.

ONE HUNDRED ONE NORTH CARSON STREET  
CARSON CITY, NEVADA 89701  
(775) 684-5670 • FAX (775) 684-5683

The Honorable Donald Rumsfeld  
June 2, 2005  
Page Two

Mr. Secretary, the recommended relocation of the units appears to be the result of a seriously flawed process that has completely overlooked the important role of the states with regard to their Air National Guard units, both in terms of the military and homeland defense.

Sincerely,



KENNY C. GUINN  
Governor

SR:sc

cc: BRAC Commission Members as follows:

Anthony J. Principi  
James H. Bilbray  
Philip Coyle  
Admiral Harold W. Gehman, Jr. USN (Ret.)  
James V. Hansen  
General James T. Hill, USA (Ret.)  
General Lloyd Warren Newton, USA (Ret.)  
Samuel Knox Skinner  
Brigadier General Sue Ellen Turner, USAF (Ret.)  
Major General Giles E. Vanderhoof, The Adjutant General  
Nevada Office of the Military

# NEVADA AIR NATIONAL GUARD

## RESPONSE TO DEPARTMENT OF DEFENSE 2005 BASE REALIGNMENT AND CLOSURE COMMISSION



JUNE 22, 2005

SUPERSEDES ALL PREVIOUS EDITIONS

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## EXECUTIVE SUMMARY

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### Availability and Condition of Land Facilities

**BRAC Recommendation:** Realign Reno-Tahoe International Airport Air Guard Station, NV. Distribute the eight C-130H aircraft of the 152d Airlift Wing (ANG) to the 189th Airlift Wing(ANG), Little Rock Air Force Base, AR. Flying related Expeditionary Combat Support (ECS) moves to Channel Islands Air Guard Station, CA (aerial port), and Fresno Air Guard Station, CA (fire fighters). The remaining ECS elements and the Distributed Common Ground System (DCGS) remain in place.

**BRAC Justification:** This recommendation distributes C-130 force structure to a higher military value base. Because of limitations to land and ramp space, Reno was unable to expand beyond 10 C-130s.

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### FACT

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**Response Fact:** Justification was incomplete. Reno-Tahoe IAP/AGS is capable of supporting 12 C-130s on existing land and growing to 16 C-130s with ramp development.

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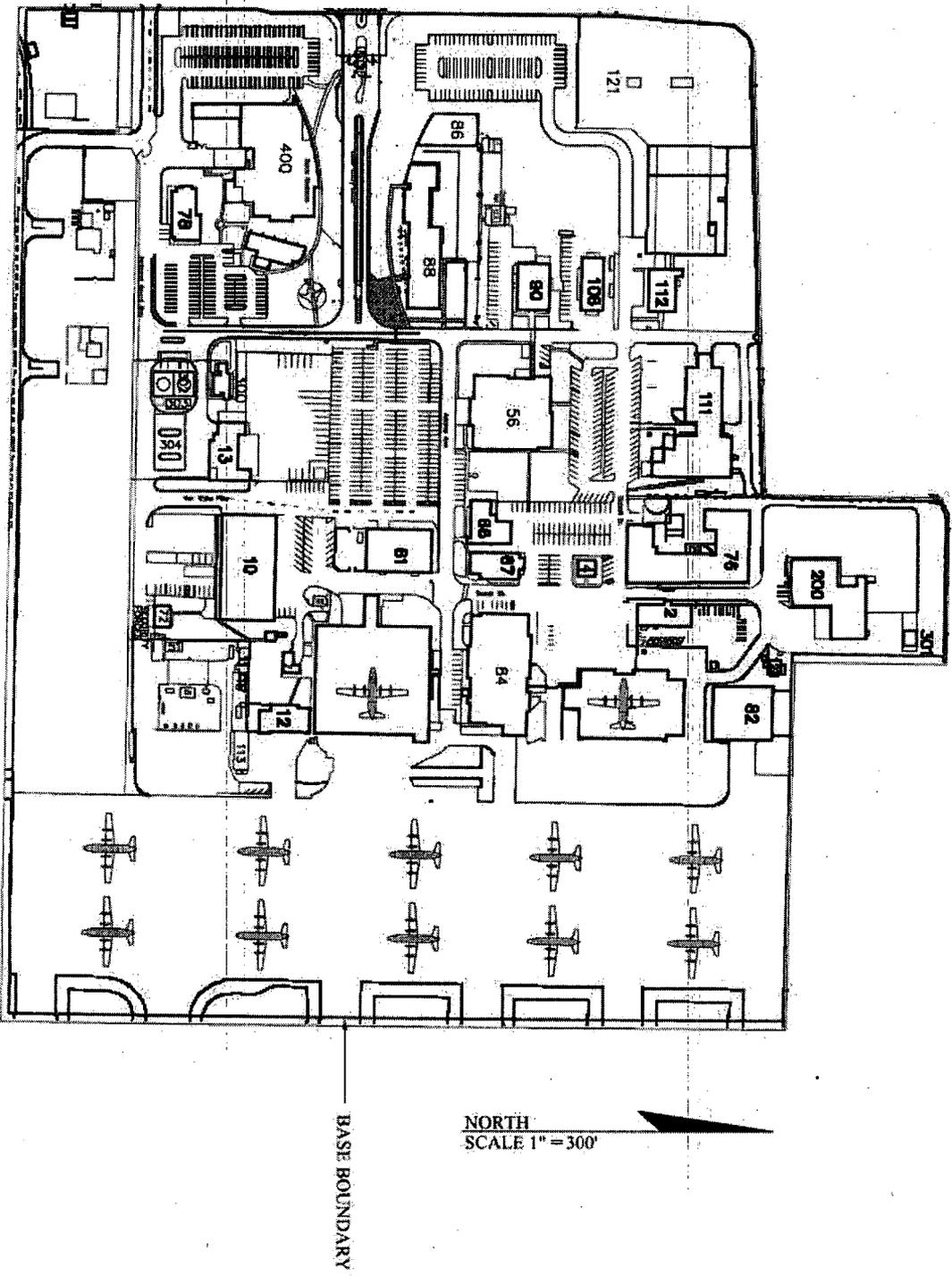
## Availability and Condition of Land Facilities

### ***Response in Detail***

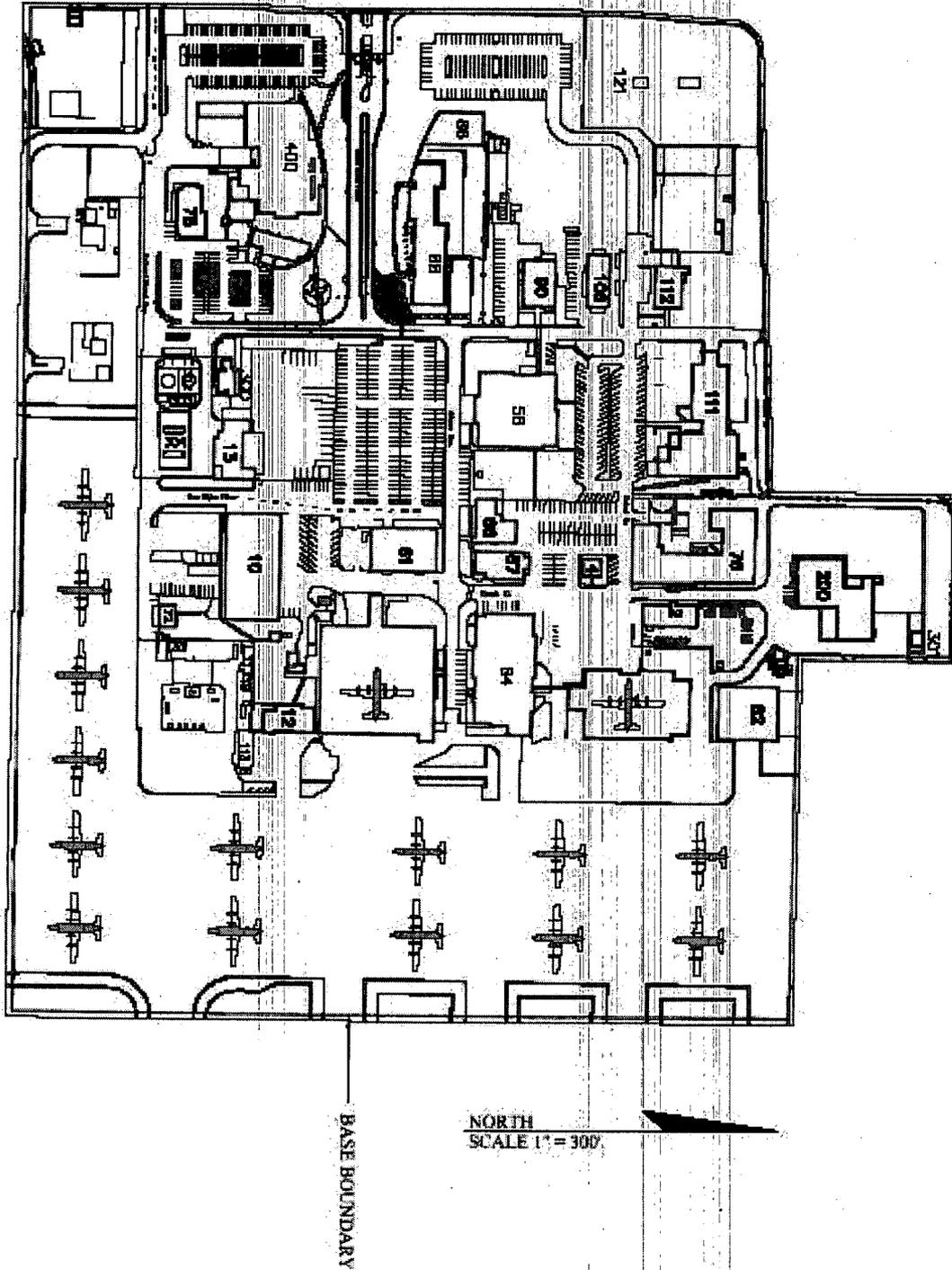
- Air Force confirms Reno-Tahoe IAP/AGS *can* robust to 12 aircraft, yet BRAC Report says unit unable to expand beyond 10 aircraft.
- The BRAC Report failed to take into account a land acquisition agreement approved by the National Guard Bureau and the Air Force providing space for up to 16 C-130s at this installation.<sup>3</sup> (See page 2a, 2b)
- Reno-Tahoe Airport Authority has spent millions revamping their existing infrastructure to accommodate the land swap.
- Available acreage (for expansion) did not take into account scheduled demolition of several existing structures or approved land swap deal, which would increase Reno-Tahoe IAP/AGS available real property to 9 acres.
  - Land acquisition agreement includes existing buildings suitable to accommodate any projected increase in manpower.
- The BRAC Report states, “No base of lesser military value by Mission Capable Index (MCI) is allowed to host force structure by Mission Design Series (MDS) until higher military value bases are at capacity limits defined by user input.”
- As a result of this unit’s invalid military value rating, the BCEG failed to follow their above noted imperative and inconsistently applied the rule of utilizing military value to make BRAC recommendations.
- Reno-Tahoe IAP/AGS is listed as a contingency facility for Fallon Naval Air Station. The 152<sup>nd</sup> Airlift Wing is also a supporting agency for Fallon’s mass disaster plan.
- Reno-Tahoe IAP has demonstrated space availability and willingness to house additional C-130 squadrons for training and contingency operations.

1. BCEG minutes dated April 30, 2004, slides 25 and 27  
2. Ralph Conti, National Guard Bureau  
3. Base Closure and Realignment Report, vol. 1, part 2 and 2, detailed recommendations, May 2005, Reno-Tahoe IAP/AGS, NV BRAC 2005 Recommendations, page C-15

# Reno-Tahoe IAP/AGS Configured with 12 Aircraft



# Reno-Tahoe IAP/AGS Configured with 16 Aircraft



2b

Current as of 26 July 2005

## EXECUTIVE SUMMARY

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### Cost of Operations and Manpower Implications

**BRAC Recommendation:** Realign Reno-Tahoe International Airport Air Guard Station, NV. Distribute the eight C-130H aircraft of the 152d Airlift Wing (ANG) to the 189th Airlift Wing (ANG), Little Rock Air Force Base, AR. Flying related Expeditionary Combat Support (ECS) moves to Channel Islands Air Guard Station, CA (aerial port), and Fresno Air Guard Station, CA (fire fighters). The remaining ECS elements and the Distributed Common Ground System (DCGS) remain in place.

**BRAC Payback:** The total estimated one-time cost to the DoD to implement this recommendation is \$22.9M. The net of all costs and savings to the DoD during the implementation period is a cost of \$12.2M. Annual recurring savings to the DoD after implementation are \$3.6M, with a payback expected in nine years. The net present value of the cost and savings to the DoD over 20 years is a savings of \$22.7M.

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### FACT

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**Response Fact:** Eliminating the entire aviation program, aerial port, and fire department at Reno-Tahoe IAP/AGS incurs unaddressed costs of nearly \$100M in 2005 dollars over a 20 year period to support the remaining Expeditionary Combat Support and other joint missions. This is a significant departure from DoD's cost savings analysis outlined in BRAC Report.

## Cost of Operations and Manpower Implications

### ***Response in Detail***

- The Department of Defense estimates the one-time cost to realign this unit at \$22.9M, but the net present value of the cost and savings over 20 years is only \$22.7M.<sup>4</sup>
  - However, shutting down the aviation portion of this wing incurs costs of \$96M in 2005 dollars over the same 20 year period. (See page 4a, 4b) The BRAC Report did not take into account the cost analysis of aviation support for the remaining intelligence unit's Scathe View mission. The Scathe View mission is a capability that provides a live television picture and direct communication to the soldiers on the ground. Replicating the loss of the wing's resources means an annual personnel cost of about \$2.6M annually to the 152<sup>nd</sup> Intelligence Squadron. There will also be additional annual training costs of about \$2.2M annually. There will also be an initial resource cost of \$1.6M with annual maintenance costs of about \$60K. Losing aircraft from the Reno-Tahoe IAP/AGS will actually cost the DoD money.
- The Reno-Tahoe IAP/AGS has a no-cost land lease-and-license until the year 2054. Current annual joint-use costs for the use of the facilities (runways, taxiways, tower, and navigational aids) total only \$59K per year, 25 percent of which is paid by the State of Nevada.<sup>5</sup> Also, 25 percent of all utility costs incurred by the base are paid by the state. The Reno-Tahoe IAP/AGS is extremely cost effective because it has use of a multi-million dollar airport facility that places zero restrictions on the unit, for only about \$45K a year. That dollar amount is unmatched by any active duty base whose runway and facility maintenance costs range in the millions.
- The cost to replace one 6-year-term airman is \$65K.<sup>6</sup> Losing 578 positions, 430 traditional and 148 technician/Guardsmen, means a minimum replacement cost of \$28M. Factor in additional training costs for officers and experienced Non-Commissioned Officers and the price tag is significantly higher. Nearly 90 percent of the 578 positions are combat veterans and 91 percent indicate they would not relocate to other units due to the extreme distances involved.
- Other unaddressed costs to realign the Reno-Tahoe IAP/AGS include \$1.5M for fire truck support to Amedee Airfield in Herlong, Calif., airdrop support to joint training taking place in Herlong, aerial port services to Sierra Army Depot and all related personnel costs.
- The Air National Guard will lose more than half the assets but will only save about one-tenth the cost. According to the BRAC Report, 60.5 percent of the cuts to Air Force flying missions come from the Air National Guard. Conversely, the result only accounts for 10 percent of the DoD-purported savings.<sup>7</sup>

4. BRAC Report, Volume 1, Part 2 of 2, Detailed Recommendations

5. Reno-Tahoe International Airport Joint Use Agreement

6. Air National Guard Recruiting Directorate

7. Unit Compilation from BRAC Report

## EXECUTIVE SUMMARY

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### Current and Future Mission Capabilities

**BRAC Recommendation:** Realign Reno-Tahoe International Airport Air Guard Station, NV. Distribute the eight C-130H aircraft of the 152d Airlift Wing (ANG) to the 189th Airlift Wing (ANG), Little Rock Air Force Base, AR. Flying related Expeditionary Combat Support (ECS) moves to Channel Islands Air Guard Station, CA (aerial port), and Fresno Air Guard Station, CA (fire fighters). The remaining ECS elements and the Distributed Common Ground System (DCGS) remain in place.

**BRAC Justification:** This recommendation distributes C-130 force structure to a higher military value base. Because of limitations of land and ramp space, Reno was unable to expand beyond 10 C-130s. This recommendation realigns Reno's (101) C-130s to the Air National Guard at Little Rock Air Force Base AR, (17), where a larger, more effective squadron size is possible. This larger squadron at Little Rock also creates the opportunity for an association between active duty and the Air National Guard, optimizing aircraft utilization.

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### FACT

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**Response Fact:** The BRAC report's Reno-Tahoe IAP/AGS military value rating of 101 failed to take into account a significant portion of the Nevada Air National Guard's missions, capabilities, and desirable training environment. Before traveling to Southwest Asia to participate in the Global War on Terrorism, the majority of Naval and Air Force aviation units train in Nevada.

## Current and Future Mission Capabilities

### ***Response in Detail***

- According to the director of the Air National Guard, Lieutenant General Daniel James III, in testimony before the U.S. Senate Appropriations Committee April 7, 2004, "The ANG is transforming its force structure to meet escalating intelligence, surveillance and reconnaissance mission requirements and ever-increasing demand for Air Guard capabilities."
  - The Nevada Air National Guard currently conducts a transformational mission with the Scathe View C-130 and is optimized by the 152<sup>nd</sup> Airlift Wing working shoulder to shoulder with the 152<sup>nd</sup> Intelligence Squadron.
  - The Scathe View C-130 has been declared a high-priority aircraft by U.S. Central Command to support the Global War on Terrorism and the Nevada Air National Guard is the only place where the technology is funded and applied.<sup>8</sup>
  - The chief of staff of the Air Force, General John Jumper, directed the Nevada Air National Guard in January to do whatever it takes to provide this high demand intelligence C-130 asset to U.S. Central Command.<sup>9</sup>
  - The Reno-Tahoe IAP/AGS continues to support war fighters in Iraq and Afghanistan by providing both intelligence and airlift capabilities, many times concurrently.
  - This high-demand, high-value asset has been credited with 30 anti-Coalition forces killed in action, 350 anti-Coalition forces captured, six weapons caches found, the identification of numerous improvised explosive devices, and the prevention of two fratricides.<sup>9</sup>
  - Scathe View used in conjunction with the Rover ground receiver unit provides real-time streaming video and voice communications to combat-engaged soldiers and Marines and saves lives. Every other system incurs a time delay, a delay that can be deadly in a combat situation.
  - Reno-Tahoe IAP/AGS Scathe View C-130s are DoD's only aircraft from which the Predator unmanned aerial vehicle can be flown.
  - Re-assignment of these eight like-configured aircraft would mean a loss of the combat-proven synergy inherent only when the aircraft are collocated with the 152<sup>nd</sup> Intelligence Squadron, even though in BRAC Report, vol. 1 of 2, section 3, page 4 says, "Air Force flying units will be restructured into a smaller number of fully-equipped squadrons to increase operational effectiveness and efficiency. In the process, aircraft of like configuration (i.e. block) will be based together."
  - The 152<sup>nd</sup> Intelligence Squadron commander says reassigning 152<sup>nd</sup> AW aircraft will result in 50% mission degradation.
  - The Air Force will lose operational capability for several months if the Scathe View aircraft are reassigned. Reno-Tahoe IAP/AGS Scathe View C-130 crews are qualified in advanced survival training and the officers have the top secret clearances necessary for Scathe View operations. The Air Force will incur a large cost in training new Scathe View C-130 crews and with the substantial waiting period for clearances, lose trained, capable crews for a significant amount of time. Given the high demand of the Scathe View operation, can the DoD afford to lose this capability for even a short amount of time in the Global War on Terrorism?

8. Personal conversation between Gen Jumper and Maj Gen Giles Vanderhoof, Nevada Adjutant General

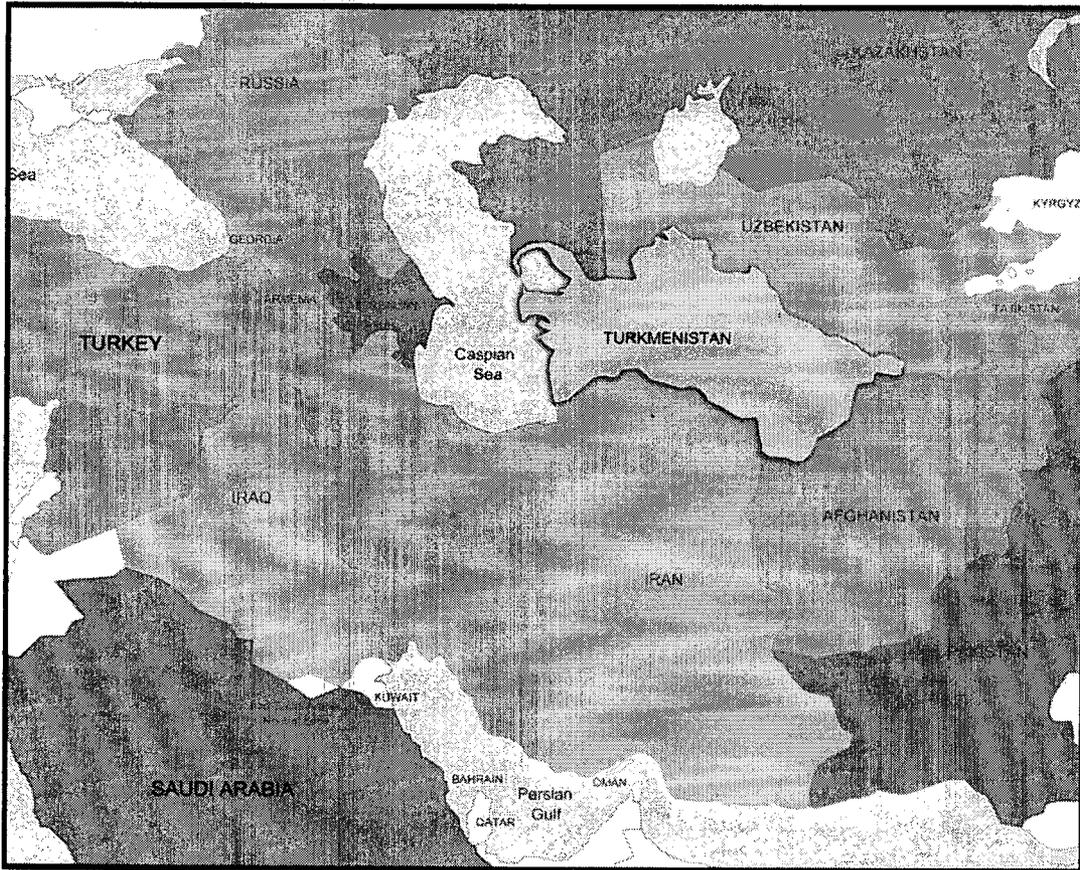
9. LtCol Gregory Harbins, Deputy Commander, 609<sup>th</sup> Combat Operations Squadron

- Reno-Tahoe IAP/AGS is one of only five units carrying the critical Senior Scout intelligence platform. Senior Scout is a high-demand signals intelligence collection asset currently employed in the Global War on Terrorism and all five Senior Scout-capable units are scheduled for re-alignment in the BRAC process.
  - Senior Scout provides a reach back data-link to both Salt Lake IAP/AGS and Reno-Tahoe IAP/AGS allowing global interoperability with the Air Force Distributed Ground Stations. This reach-back capability requires a dedicated modified C-130.
  - The Salt Lake City IAP/AGS has a requirement for a replacement training unit for Senior Scout-capable C-130s which will require a significant increase in dedicated flight hours.
  
- The BRAC report did not address Nevada's unique mission capabilities:
  - Reno-Tahoe IAP/AGS aircraft are DoD's only dual-mission combat C-130s providing Scathe View and airlift/airdrop capabilities. Scathe View is an intelligence collection and dissemination system mounted on specially-equipped C-130s and used extensively in its combat application for force protection in the Global War on Terrorism.
  - The Air Force has validated the requirement for Scathe View technology and demonstrated its value, but only the Nevada Air National Guard's budget pays for and mans the operations. As there are no other units funded to take the Scathe View platform and no other trained airborne imagery analysts in the entire U.S. Air Force, relocating the Reno C-130s and subsequently losing this capability will have far-reaching effects on our nation's ability to defend ourselves and our ability to successfully provide superior intelligence in the Global War on Terrorism.
  
- The BRAC report did not address Nevada's C-130 role in the National Guard State Partnership Program with Turkmenistan, a key emerging state in Southwest Asia bordering Iran and Afghanistan. (See page 7a) While U.S. Central Command Air Forces have been unable to facilitate exchanges with the nation, Turkmen President, Saparmurat Niyazov, told the U.S. State Department that Nevada Air National Guard C-130s are the only U.S. military aircraft authorized to routinely operate in Turkmenistan. The Reno-Tahoe IAP/AGS C-130s assist the Turkmen state border service in securing this geographically important region. This capability loss would substantially damage U.S. relationships in this strategic region.
  
- The BRAC report did not even address Reno-Tahoe IAP/AGS unrivaled training environments:
  - Nearly 90 percent of Nevada is federally owned and used daily for joint military training.<sup>10</sup>
  - Ten joint-use drop and landing zones within a fifty-mile radius, and eight additional drop zones within 150 miles, with terrain greatly resembling Iraqi and Afghan topography.<sup>11</sup> (See page 7b)
  - Within a 150-mile radius there are eight major training complexes. The proximity of these extensive complexes is an exceptional advantage to joint warfare training using the Reno-based C-130s.<sup>12</sup> (See page 7c)

10. Bureau of Land Management

11. USAF Air Mobility Command Zone Availability Report

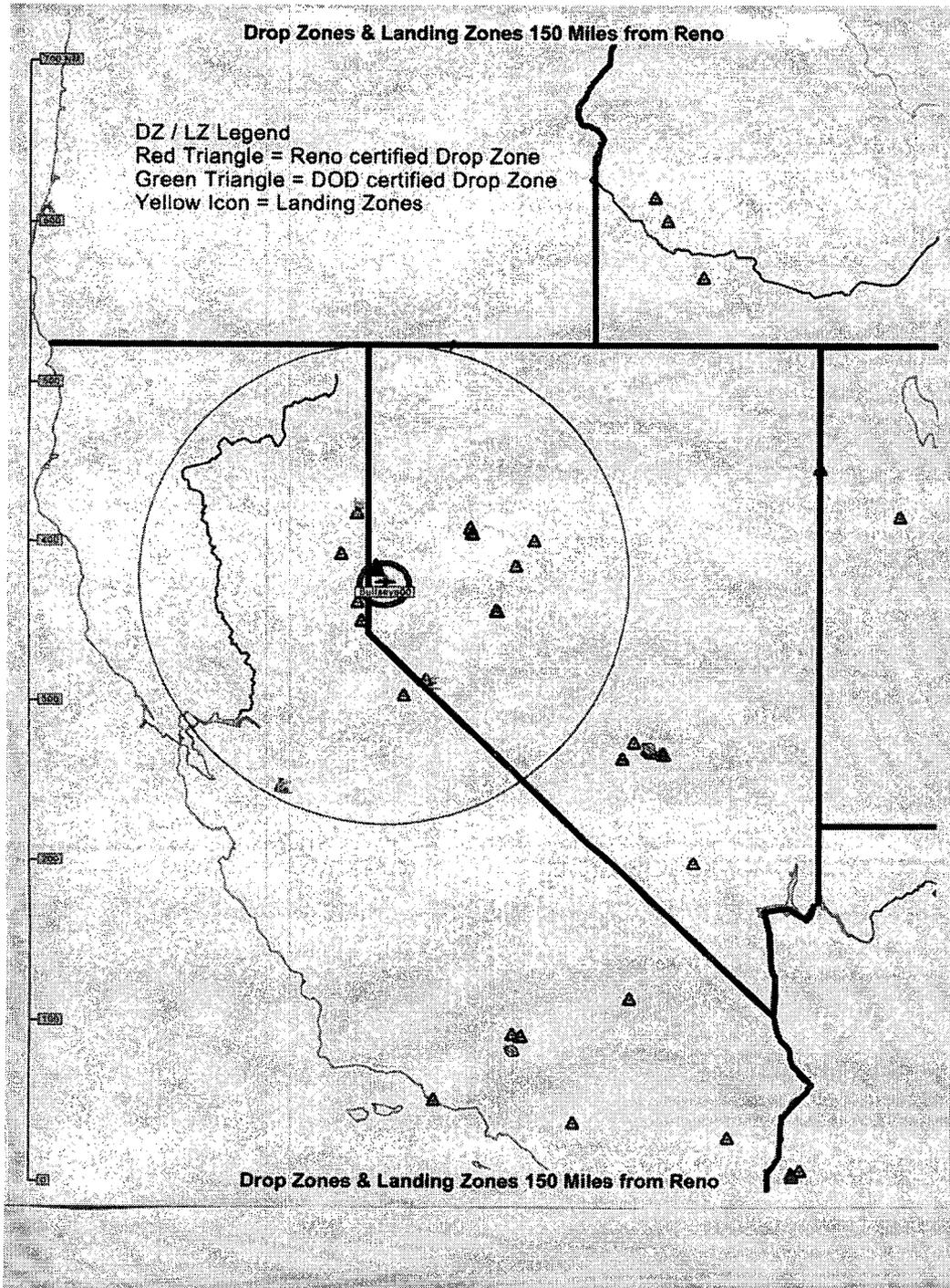
12. FalconView Airspace Overlay



7a

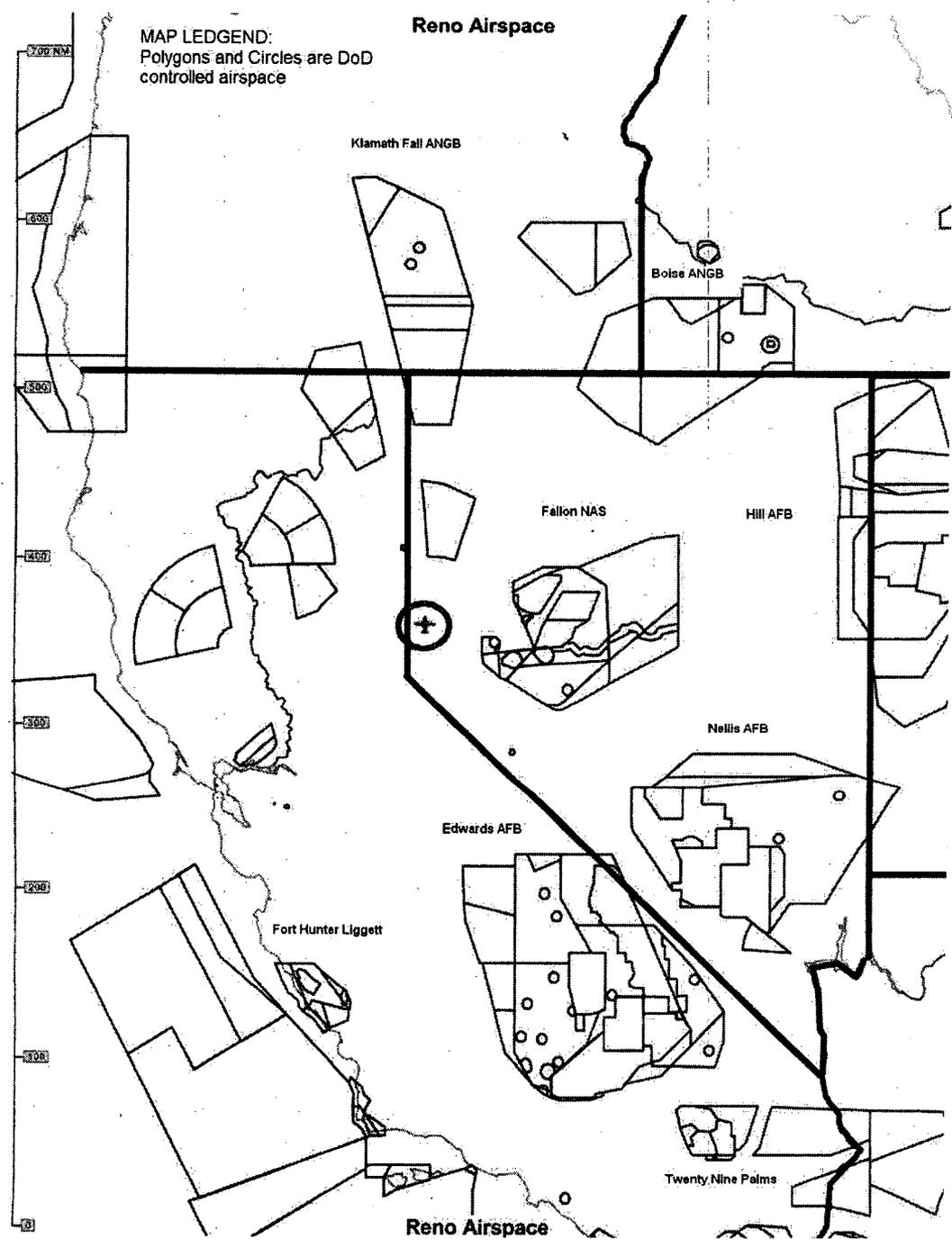
Current as of 26 July 2005

# Reno-Taho Drop Zone and Landing Zone Map



# Reno-Tahoe IA

## Special Use Military Airspace (Ranges) and Military Operating Areas (MOAs)



- The Reno-Tahoe IAP/AGS routinely trains jointly with the majority of the west coast DoD military organizations and provides support to all U.S. armed forces as well as Allied nations' military forces training in this superior training environment.<sup>13</sup>
- The Reno-Tahoe IAP/AGS acts as a future mission test and evaluation location for future reconnaissance and intelligence missions associated with Scathe View, Senior Scout, Predator aircraft, and other unmanned aerial vehicles.
- The 152<sup>nd</sup> Aerial Port Flight provides critical joint support for Sierra Army Depot (Herlong, Calif.), a major logistics base about 50 miles from Reno. Relocating the aerial port flight means 100 percent of the depot's airlift requirements would have to be supported by a unit hundreds of miles away.
  - In 2004, the 152<sup>nd</sup> Aerial Port Flight performed a six month, 24/7 surge operation at Herlong processing and moving vital war support equipment housed there. While the surge is over, the depot still requires support on a monthly basis and is slated to expand<sup>14</sup> its Department of Homeland Security emergency management agency resources, configured loads, reusable war fighting stocks, and a medical stockpile for 26 active duty mobile hospitals. This expansion represents a nearly 50% increase in the depot's operations. If the Reno unit is realigned, the depot's ongoing requirement would task units from more than five hours away to support their function. Due to Herlong's location, those units would have to be housed in Reno. Taking housing and per diem into consideration, the cost to bring in a unit other than Reno is prohibitive.

13. Joint Airborne Air Transportability Training After-Action Report  
14. Sierra Army Depot

## EXECUTIVE SUMMARY

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### Homeland Security/Defense Issues

**BRAC Recommendation:** Realign Reno-Tahoe International Airport Air Guard Station, NV. Distribute the eight C-130H aircraft of the 152d Airlift Wing (ANG) to the 189th Airlift Wing (ANG), Little Rock Air Force Base, AR. Flying related Expeditionary Combat Support (ECS) moves to Channel Islands Air Guard Station, CA (aerial port), and Fresno Air Guard Station, CA (fire fighters). The remaining ECS elements and the Distributed Common Ground System (DCGS) remain in place.

**BRAC Justification:** This recommendation distributes C-130 force structure to a higher military value base. Because of limitations to land and ramp space, Reno was unable to expand beyond 10 C-130s. This recommendation realigns Reno's (101) C-130s to the Air National Guard at Little Rock Air Force Base (17), where a larger, more effective squadron size is possible. This larger squadron at Little Rock AR also creates the opportunity for an association between active duty and the Air National Guard, optimizing aircraft utilization.

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### FACT

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**Response Fact:** The National Security Strategy lists homeland defense as our nation's number one priority.<sup>15</sup> BRAC calculations did not address Nevada's unique requirements and location for homeland defense. Eliminating the C-130s from this state absolutely cripples its ability to respond to any large-scale emergency.

Due to the fact that Nevada is a geographically large state (see page 10a) with annual flooding, large-scale wildfires, major fault lines, the largest dam in the nation and a tourist destination unlike any other in the world, the Nevada Air National Guard's support of these diverse characteristics is paramount.

15. United States National Security Strategy, 2002

***Response in Detail***

- If BRAC recommendations are implemented, only one C-130 tactical airlift unit west of the Rocky Mountains will remain.<sup>16</sup> This area represents nearly 23 percent of the Continental United States.<sup>17</sup>
- Nevada's Homeland Security/Defense assets requiring airlift support include:
  - The Reno-Tahoe IAP/AGS based C-130s are written into the Nevada Emergency Response Plan, the Joint Emergency Operations Plan, and the Emergency Mutual Assistance Compact with 48 other states.
  - Nevada Weapons of Mass Destruction Civil Support Team and teams from three other states
  - World-class Urban Search and Rescue Team
  - 152nd Medical Group Emergency Medical System personnel
  - Nevada National Guard's quick reaction forces: 4-hour response time
  - Nevada National Guard's rapid reaction forces: 24-hour response time
  - Support to the Centers for Disease Control (CDC) Strategic National Stockpile. According to the CDC, during a crisis, this emergency medical stockpile will only be delivered to one location in each U.S. state.<sup>18</sup> Each state must then provide logistic support to deliver it to stricken areas. Delivery times are always crucial when this stockpile is requested.
- Nevada is the fastest growing state and has been for the last ten years. Southern Nevada is identified as one of the most significant areas requiring homeland defense.<sup>19</sup> McCarran International Airport in Las Vegas was listed the 6th busiest airport in North America in 2004 and 11<sup>th</sup> busiest in the world, with 51.5 million passengers each year.<sup>20</sup>
- Given the size and distances in the State of Nevada (see page 10a), the loss of the Reno-based C-130 aircraft shatters the ability of the state to respond with critical personnel and equipment in support of Homeland Security/Defense missions.
  - Nevada contains more than 109,826 square miles of territory, nearly twice the size of all six New England states and the distance between metropolitan areas is 485 miles.<sup>17</sup> This could represent a nine hour delay in providing support.

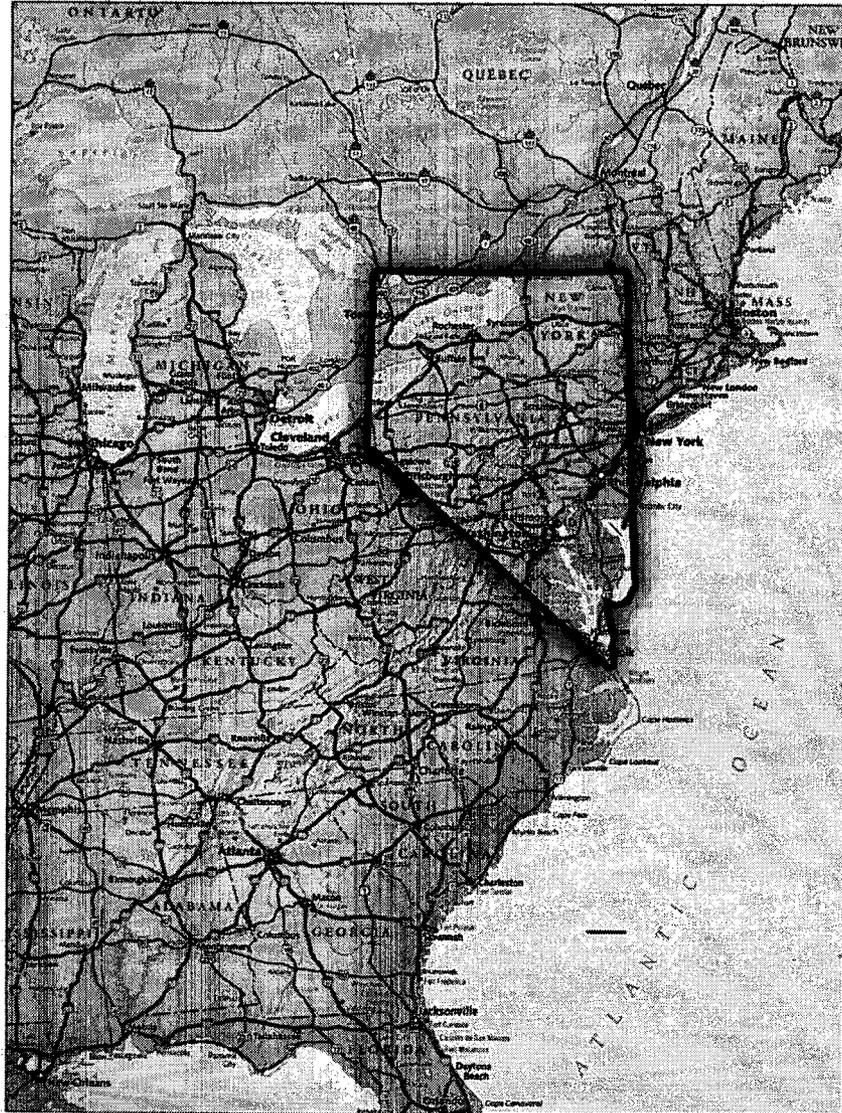
16. BRAC Report

17. U.S. Geologic Survey

18. U.S. Dept. of Health and Human Services

19. 2004 FBI Threat Assessment

20. McCarran International Airport



**ACTUAL LAND SIZE OF NEVADA**

- The state of Nevada is part of Federal Emergency Management Agency's region nine. This consists of California, Nevada, and Arizona. Nevada C-130s are currently tasked to support Civil Support Teams from these three states as well as Emergency Medical System personnel assigned to this region.
- The National Guard is uniquely suited to perform homeland security. The slow process of requesting active duty support for homeland security versus the rapid response of state assigned Guard units emphasizes the need for local community-based C-130 Air National Guard units for the security of this state and the large Federal Emergency Management Agency region in which we reside.
- The capabilities required for homeland defense are the same capabilities needed in forward areas. Homeland defense operations are inherently multi-agency, multi-jurisdictional efforts.
- "Secure and defend our homeland here and abroad is mission number one," is a National Guard principle."

## EXECUTIVE SUMMARY

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### Loss of Fire Fighting Support Capability

**BRAC Recommendation:** Realign Reno-Tahoe International Airport Air Guard Station, NV. Distribute the eight C-130H aircraft of the 152d Airlift Wing (ANG) to the 189th Airlift Wing (ANG), Little Rock Air Force Base, AR. Flying related Expeditionary Combat Support (ECS) moves to Channel Islands Air Guard Station, CA (aerial port), and Fresno Air Guard Station, CA (fire fighters). The remaining ECS elements and the Distributed Common Ground System (DCGS) remain in place.

**BRAC Justification:** This recommendation distributes C-130 force structure to a higher military value base. Because of limitations to land and ramp space, Reno was unable to expand beyond 10 C-130s. This recommendation realigns Reno's (101) C-130s to the Air National Guard at Little Rock Air Force Base AR, (17), where a larger, more effective squadron size is possible. This larger squadron at Little Rock AR, also creates the opportunity for an association between active duty and the Air National Guard, optimizing aircraft utilization.

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### FACT

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**Response Fact:** The BRAC list gave no consideration to the Nevada Air National Guard's Scathe View-enhanced fire support capabilities or its ability to respond to the western states' extensive fire fighting requirements. The realignment of the Nevada Air National Guard also includes the reassignment of the 152<sup>nd</sup> Civil Engineer Squadron fire personnel who are all wildfire qualified. Eliminating these capabilities from Nevada will put lives and homes in grave danger.

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## Loss of Fire Fighting Support Capability

### ***Response in Detail***

- The Reno-based C-130 Scathe View-modified aircraft is a high-value asset in fire fighting due to its many cameras and infrared sensors enabling it to see through smoke day and night. Moving the modified aircraft from Reno would mean a complete loss of this state capability.
- Scathe View missions have recently been flown in support of large fires in California, Idaho, and Nevada. During the day Scathe View aircraft provide real-time fire-assessment data. At night Scathe View aircraft provide data to the fire command, allowing it to survey fire movement and develop an accurate action plan.
- Reno has been identified as a prime candidate for the Mobile Airborne Fire Fighting System (MAFFS)<sup>22</sup> because of its unique proximity to the largest national forest in the contiguous United States (Humboldt-Toiyabe at 6.3 million acres). A MAFFS regional support center is slated to open 10 miles away from Reno-Tahoe IAP/AGS.
  - Scathe View will leverage MAFFS, giving the ability to drop slurry through smoke directly on hotspots, fire lines and most importantly, endangered firefighters.
- During the last five years, the state of Nevada lost 1.5 million acres to wildfires.<sup>23</sup> As part of the state mission, the Reno-Tahoe IAP/AGS fire personnel and Scathe View aircraft are credited with protecting lives and homes with these modified C-130s.
- The 152<sup>nd</sup> Civil Engineer fire department, in addition to supporting 152<sup>nd</sup> Airlift Wing air operations, is tasked to support Travis Air Force Base C-17 aircraft operations at Amedee Army Airfield. Travis has proposed a long-term contract for this specific support. The wing's fire fighting organization is the only agency that allocates time, personnel, and equipment to support flying operations at this facility. If the wing's fire fighting capability is realigned, Travis' C-17 assault training operations will be severely curtailed.
- Twenty-five percent of the 152<sup>nd</sup> Civil Engineer Squadron fire fighters are State of Nevada employees, whose job loss positions were not identified in the BRAC process.

22. National Guard Bureau Operations Plans Office

23. Nevada Division of Forestry

## EXECUTIVE SUMMARY

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### Recruiting

**BRAC Recommendation:** Realign Reno-Tahoe International Airport Air Guard Station, NV. Distribute the eight C-130H aircraft of the 152d Airlift Wing (ANG) to the 189th Airlift Wing (ANG), Little Rock Air Force Base, AR. Flying related Expeditionary Combat Support (ECS) moves to Channel Islands Air Guard Station, CA (aerial port), and Fresno Air Guard Station, CA (fire fighters). The remaining ECS elements and the Distributed Common Ground System (DCGS) remain in place.

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## FACT

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**Response Fact:** Nevada continues to outpace the nation's population growth. With one of the best recruiting rates in the Air National Guard, the unit has proven it can easily meet all future manning requirements with the marketability the C-130s bring. The majority of young enlisted recruits indicate interest in working on or around the aircraft at Reno-Tahoe IAP/AGS.<sup>24</sup> Loss of the flying portion of this unit will negatively impact the recruiting and retention success and inclusion on BRAC list alone has already cost new recruits and experienced airmen.<sup>24</sup>

24. 152<sup>nd</sup> Airlift Wing Recruiting

**Response in Detail**

- The Nevada Air National Guard has the manning to meet all current mission requirements as well as the ability to recruit to either 12 or 16 primary aircraft assigned.
- The Air National Guard failed to meet its first half FY 2005 recruiting goals by 21 percent.<sup>25</sup> conversely the Nevada Air National Guard is the only C-130 Guard unit west of the Mississippi to meet the 97 percent recruiting threshold set by the National Guard Bureau.
- Reno has not only been able to maintain, but increase its manning level during the last several years. With a current population of over 385,000 and a five-year growth rate of 13 percent, Reno is projected to reach 442,000 residents by the year 2015.<sup>26</sup>
- While the BRAC Report actually shows a plus-up of military personnel in southern Nevada, the additions are not indicated as Air National Guard positions. Even if there is a plan to grow the Nevada Air Guard's presence in southern Nevada, Las Vegas is 485 miles away from Reno-Tahoe IAP/AGS and in individual conversations with those set to lose their Reno positions, 91 percent said they would not relocate to southern Nevada.
- A direct correlation has already been made between the elimination of a flying mission and Nevada Air National Guard's ability to maintain its manning. Within the first three weeks of the BRAC announcement, three members left the unit and several potential recruits expressed concern over whether they would have jobs in two years and have since declined to enlist.

25. U.S. Department of Defense News Release dated June 10, 2005

26. Economic Development Authority of Western Nevada, 2005

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## Fundamental Differences Between Guard and Active Duty

**Inappropriate Methodology:** BRAC gave no consideration for Air Guard entities that are inherently different from active duty missions and cost structures.

**Response Facts:**

- Active Duty – The mission of the active duty Air Force is to defend the United States and to protect its interests through air and space power.
- National Guard – As per the Constitution of the United States, the Guard has equal obligations to the country and to the state in which it resides. Each state's governor is the commander-in-chief unless the Guard is called to federal active duty service. For the vast majority of day to day missions, the Guard's obligations lie with the state's homeland security, support to state entities, and assistance in times of crisis, at which time, all expendable supplies, fuel, flight hours, and personnel costs are reimbursed to the federal government.
- The Guard provides the Department of Defense fully-trained units capable of going to war at a moment's notice for 1/3 the personnel costs of an active duty unit and substantially lower operating costs. Those savings originate with community basing structures allowing the Guard to share operating facilities with local airports and ranges with other DoD entities. Additionally, no costs are incurred for housing, hospitals and other infrastructure found on active duty bases.

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## Errors in BRAC Methodology

**Erroneous Analysis:** In the Secretary of Defense's BRAC selection process, the Air Force analysis was shaped by three underlying rules: military value, both quantitative and qualitative, was the primary factor; all installations were treated equally; and installation military value was determined on a base's current mission, but also on its capacity to support other core missions.<sup>27</sup>

**Response Fact:** The preceding pages have illustrated why the Reno-Tahoe IAP/AGS's military value was quantitatively gathered in a subjective manner, that our current and future missions were not taken into consideration, and that the "equal treatment" of installations was inherently flawed.

27. Base Closure and Realignment Report, vol. 1, part 2 and 2, detailed recommendations, May 2005, Reno-Tahoe IAP/AGS, NV BRAC 2005 Recommendations, Air Force page 2.

## Substantial Deviation from BRAC Criteria by BCEG

### Deviation: Contradictory Data Used for Selection Criteria by Base Closure Executive Group

#### Response Facts:

- The BRAC Report states, "No base of lesser military value by Mission Capable Index (MCI) is allowed to host force structure by Mission Design Series (MDS) until higher military value bases are at capacity limits defined by user input."<sup>28</sup>
- As a result of this unit's invalid military value rating, the BCEG failed to follow their above noted imperative and inconsistently applied the rule of utilizing military value to make BRAC recommendations.
- Throughout the BRAC selection process, Reno's current and future mission capability was never addressed, though current and future mission capability is the number one priority according to the BRAC Final Selection Criteria.<sup>28</sup>
- The BRAC Report identified patterns that emerged for their recommendations, "Air Force flying units will be restructured into a smaller number of fully equipped squadrons to increase operational effectiveness and efficiency. In the process, aircraft of like configuration, (i.e. block) will be based together."<sup>29</sup> Moving the eight uniquely specialized aircraft to the 189<sup>th</sup> Airlift Wing at Little Rock Air Force Base to be used as generic C-130 trainers directly contradicts this statement.
- Contradictory Personnel Loss Numbers
  - The BRAC Report lists three different numbers in three locations regarding displaced Reno-Tahoe IAP/AGS personnel.
    - In volume 1, part 2 of 2, the recommendation shows a loss of 148 full-time positions and 430 drill positions.
    - In volume 1, part 1 of 2, the recommendations shows a loss of 124 civilian and 23 military positions.
    - In volume 5, part 1 of 2 shows a reduction of 263 jobs (147 direct jobs and 116 indirect jobs).
    - Our examination of the 152<sup>nd</sup>'s unit manning document shows the loss of 453 positions from operations, maintenance, aerial port flight, and the civil engineer fire department. It does not include functions whose training ability will be lost with loss of the aircraft. The fuels section with 18 airmen is a prime example. The BRAC Report does not address these positions so affected.
- Equal Treatment of Active Duty and Reserve Component installations
  - Many BRAC data call questions (1.91, 1.92, 1.101, 1.102, 1.103, 1.138, 1.139, 1.141, 1.142, 14.87 through 14.137) prevented numerous Air Guard locations from answering if they did not have an undergraduate or graduate training program in place or did not locally own ranges or facilities. Active duty locations frequently have those training programs in place and own those ranges or facilities. Few Air Guard locations have those training programs and most of Nevada's ranges are federally owned, though still available every day to the Reno-Tahoe IAP/AGS.

28. Base Closure and Realignment Report, vol. 1, part 2 and 2, detailed recommendations, May 2005. Reno-Tahoe IAP/AGS, NV BRAC 2005 Recommendations, page C-15.

29. Department of the Air Force Analysis and Recommendations for BRAC 2005, vol. 5, part 1 and 2, May 2005, page 149

- BRAC Report identified Reno-Tahoe IAP/AGS as only having two runways. In fact, Reno IAP has six runways: 16R, 16L, 34R, 34L, 25, and 07. The BRAC question number nine failed to elicit complete information on the number of runways at installations.
- Numerous questions elicited “N/A” or no responses. One such question<sup>30</sup> regarding air operations departure delays gives Reno Tahoe IAP/AGS an “N/A” for a response. The criterion to receive full credit, 100 points, is “zero percentage delayed.” Did Reno Tahoe IAP/AGS receive any credit when the answer recorded was “N/A”? In the BRAC Report, Section 3, Vol. 1, Part 2 of 2, Air Force Section 3, page 3, the BCEG Scenario Development states the Air Force cueing tool was used in the data calculations. The BCEG removed “first look” results that the cueing tool was unable to recognize. Did this include “N/A” responses? The actual fact is Reno should have received 100 points for this question. The data released does not reveal what value this installation received in this area.
  - Below are some of the other areas that give us concern regarding the undervaluation of this installation:
    - undercounted drop zones, uncounted landing zones
    - undercounted navigational aids
    - extremely favorable flying weather conditions
    - zero electromagnetic interference/restrictions at Reno-Tahoe IAP/AGS
    - favorable geography
    - community basing
- The BRAC Report failed to take into account the Reno-Tahoe IAP/AGS’ transformational mission: Scathe View and Senior Scout, It also failed to account for the use of the 152<sup>nd</sup> Airlift Wing as a test bed for numerous emerging intelligence assets, even though those missions and assets have been widely proclaimed as the future of the Air Force and the Air National Guard and evidenced by Lieutenant General Daniel James III, the director of the Air National Guard before the U.S. Senate Committee on Appropriations on April 7, 2004.

“The Air National Guard’s Intelligence, Surveillance, and Reconnaissance personnel and systems play an increasing important role in the defense of our nation.”

“Due to a significant increase in AF mission requirements, the ANG continues to expand its intelligence collection and capability. Other developing AF capabilities entrusted to the ANG include... the C-130 Scathe View tactical imagery collection system. Scathe View provides a near-real-time imaging capability to support humanitarian relief and non-combatant evacuation operations. To support signal intelligence collection requirements, the ANG continues to aggressively upgrade the SENIOR SCOUT platform. SENIOR SCOUT remains the primary collection asset to support the nation’s war on drugs and the Global War on Terrorism in the southern hemisphere.”

“The ANG is transforming its force structure to meet escalating intelligence, surveillance and reconnaissance mission requirements and ever-increasing demand for Air Guard capabilities.”

Scathe View since November 2003 has been used in Operation Iraqi Freedom and Operation Enduring Freedom as a close-air-support asset and is among the top five priorities requested by the CENTCOM combatant commander.

30. Department of the Air Force Analysis and Recommendations BRAC 2005, vol. 5, part 2 of 2, May 2005, question 1242, column five, Percentage Delayed for ATC

- This was also evidenced through testimony of Lieutenant General H. Steven Blum, the chief of the National Guard Bureau in his testimony before the U.S. House Armed Services Committee subcommittee on Total Force on March 31, 2004.

“Additionally, the Air National Guard’s continued acquisition of the AN/APN-241 Low Power Color Radar, continued installation of the Night Vision Imaging System, and the Air National Guard-driven development of Scathe View to include various technological spin-offs having application in a myriad of civilian and military efforts. Other Air Guard programs include the AN/AAQ-24 (V) Directional Infrared Countermeasures System, propeller upgrades like the Electronic Propeller Control System and NP2000 eight-bladed propeller, and a second generation, upgraded Modular Airborne Fire Fighting System.”

Of the eight above-listed aircraft enhancements, seven are current and future upgrades specifically for Reno-Tahoe IAP/AGS C-130 aircraft because of the close relationship between them and the co-located intelligence squadron. It will be years, if ever, that most other C-130s will have this superb equipment.

## **Procedural and Substantive Legal Issues in the BRAC Process and Recommendations**

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The BRAC recommendation to relocate the 152<sup>nd</sup> Airlift Wing violates both the specific language, as well as the intent, of the U.S. Constitution, several federal statutes, and 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.

### **The United States Constitution and federal statutes**

The National Guard is a hybrid federal and state organization, and has been since the inception of the country. The United States Constitution states, at Article I, Section 8 (known as the “militia clause”), that the federal Congress will provide for organizing, arming, and disciplining, the militia, but specifically reserves “...to the state’s respectively, the appointment of officers, and the authority of training the Militia according to the discipline prescribed by Congress.” In recognition of this constitutional basis that the militia (now National Guard) is a hybrid Federal-State entity, the federal Congress has passed several statutes to ensure that the Guard is treated in a constitutional fashion, and to ensure that the National Guard can carry out its dual roles of serving as a reserve component of the federal military and as the militia of each state.

One statute recognizes the authority of the Governor on the specific issue of the relocation of Guard units. Title 10 USC 18238 states:

A unit of the Army National Guard of the United States or the Air National Guard of the United States may not be relocated or withdrawn under this chapter without the consent of the Governor of the state or, in the case of the District of Columbia, Commanding General of the National Guard of the District of Columbia.

This plainly worded statute clearly requires that a Governor provide his or her prior consent before relocating a unit of the Air National Guard and would prevent, and in this instance, the relocation of the 152<sup>nd</sup> Airlift Wing from the State of Nevada. The Governor of Nevada, Kenny Guinn, has expressed his concern about this in a letter to Secretary Rumsfeld, a copy of which is located at the beginning of this package.

Another federal statute was violated in the BRAC recommendation process. 10 USC Section 10501(b) requires that the National Guard Bureau serve as a “channel of communication” between the Department of the Army and the Department of the Air Force and the several states on matters pertaining to the National Guard. This statute recognizes the dual responsibilities of each state’s Guard and is designed to ensure that the interests of each state would be adequately considered and protected. NGB failed to fulfill this statutory responsibility, in that no information on the BRAC process was provided to the Governors of the states (or to The Adjutants General of any states) by the Department of Defense during the BRAC recommendation process. This prohibited the states and Governors from being actively involved in the DoD recommendation, contrary to 10 USC 10501(b).

### **The United State Supreme Court**

The U. S. Supreme Court, in the case of *Perpich v. Department of Defense*, 496 U.S. 334, 110 S.Ct. 2418 (1990), also recognized the dual role of the National Guard and the legal right and responsibility of the Governor.

*Perpich* recognized the Governor's right to veto certain federal training missions if those federal training missions interfered with the state Guard's capacity to respond to local emergencies. Sections (b) and (d) of 10 USC 12301 prohibit the Secretary of Defense from ordering "units and members of the Army National Guard of the United States or the Air National Guard of the United States" to active duty "without the consent of the governor of the State...". The Montgomery Amendment {now codified at 10 USC 12301(f)} was passed by Congress to allow state Guard soldiers and airmen to train overseas without obtaining the consent of the Governor. The Montgomery Amendment states:

The consent of a Governor described in subsections (b) and (d) may not be withheld (in whole or in part) with regard to active duty outside the United States, its territories, and its possessions, because of any objection to the location, purpose, type, or schedule of such active duty.

While the U.S. Supreme Court upheld the Montgomery Amendment in the *Perpich* case, the Court recognized that the Amendment only deprived the Governor of certain veto powers, while the Governor retained the rest. The Court upheld this Amendment because of its narrow application, and the fact that depriving the Governor of these specific veto powers would not affect the Governor's ability to respond to local emergencies. The Supreme Court stated that a Governor retains the veto power if federal training missions substantially impact the Governor's ability to respond to local emergencies. The U. S. Supreme Court stated:

The Minnesota Unit, which includes about 13,000 members, is affected only slightly when a few dozen, or at most a few hundred, soldiers are ordered into active service for brief periods of time. Neither the state's basic training responsibility, nor its ability to rely on its guard and state emergency situations is significantly affected. Indeed, if the federal training mission were to interfere with the state Guard's capacity to respond to local emergencies, the Montgomery Amendment would permit the Governor to veto the proposed mission.

*Perpich* at 351 (emphasis added)

The Supreme Court has clearly stated that a state Guard must be left with the capacity to respond to local emergencies. In this case, the complete removal of any air lift capacity for the State of Nevada has a drastic effect on the Governor's ability to respond to local emergencies (as argued elsewhere in this document). Thus, the BRAC's recommendation to relocate the only Air Guard wing in Nevada violates the *Perpich* case.

### **Policy Considerations**

This particular BRAC recommendation also violates the 1973 Total Force Policy issued during Secretary of Defense Melvin Laird's term. That Total Force Policy was designed to involve a large portion of the American public by mobilizing the National Guard from its thousands of locations throughout the United States when needed. The Total Force Policy required that all

active and reserve military organizations of the United States be treated as a single integrated force. The benefit of the Total Force Policy approach is to permit elected officials to have a better sense of public support or opposition to any major military operation. The Total Force Policy follows the intentions of the founding fathers for a small standing army complemented by citizen-soldiers. Again, the recommendation of BRAC that removes the entire airlift capacity of an entire state violates the Total Force Policy, a policy which has never been retracted.

### **Summary**

The DoD recommendation to eliminate all Air National Guard aircraft from the State of Nevada is contrary to the historical role of the National Guard as a hybrid state/federal entity. The DoD failed to involve the State of Nevada in the process of making its recommendation (as is expected by 10 USC 10501), and this failure led to the DoD ignoring the Constitutional and statutory role of the state. The requirement of obtaining the consent of the Governor (as required by 10 USC 18238) was by-passed. By removing all Air Guard airlift capacity from the State of Nevada, the DoD recommendation inhibits the Governor of the State of Nevada from carrying out his responsibility to respond to local emergencies (contrary to the direction of the U.S. Supreme Court as revealed in the *Perpich* case).

Finally, Congress has recognized the importance of maintaining the strength of the National Guard. 32 USC 102 states, in part:

In accordance with the traditional military policy of the United States, it is essential that the strength and organization of the Army National Guard and the Air National Guard as an integral part of the first line defenses of the United States be maintained and assured at all times.

The DoD recommendation to eliminate all Air National Guard aircraft from the State of Nevada clearly affects the strength and ability of the Nevada Air National Guard to be an integral part of the first line defenses of the United States.

**State of Nevada Alternate Air National Guard  
BRAC Recommendation**

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Increase the 152<sup>nd</sup> Airlift Wing's assigned aircraft by at least four to support growing transformational missions and valuable homeland defense responsibilities.



**STATE OF NEVADA MILITARY DEPARTMENT  
152<sup>nd</sup> OPERATIONS GROUP  
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26-Jul-05

**MEMORANDUM FOR Mr. Anthony Principi, Chairman  
FROM: 152 AW**

**SUBJECT: Meeting Attendance**

Members present for discussion on BRAC recommendations.

BG Cindy Kirkland, Adjutant General, State of Nevada  
BG Lawrence Cerfoglio, Commander, Nevada Air National Guard  
BG (Sel.) Mike Gullihur, Assistant Commander NVANG  
Col. Jon Proehl, Commander 152<sup>nd</sup> Airlift Wing NVANG  
Col. Frank Landes, Vice Commander, 152<sup>nd</sup> Airlift Wing, NVANG  
Lt. Col. Jim Cumings, ESSO, Nevada State HQ  
Lt. Col. Les Gonzalez, Commander, 152<sup>nd</sup> Intel Squadron, NVANG (Scathe View)  
Lt. Col. John Summers, Commander, Hawthorne Army Depot  
Lt. Col. Gary Turner, Commander 192<sup>nd</sup> Operations Support Flight Commander, NVANG  
Lt. Col. Chris Ultsch, 152<sup>nd</sup> Operations Group, NVANG  
CMS John Ternau, Nevada State Command Chief  
CMS Ray Lake, 152 Airlift Wing Command Chief  
Capt. Tom Funk 152 Maintenance Squadron CRF/OIC, NVANG  
Congressman Jim Gibbons, Congressman for the state of Nevada  
Mr. Giles Vanderhoof, Director Nevada Homeland Security Department  
Mr. Steve Robinson, Natural Resource and Rural Advisor for the Office of the Governor  
Mr. Bob Herbert, representing Nevada Senator Harry Reid  
Mr. Marc De La Torre, Regional Representative for Senator John Ensign  
Mr. Nick Vanderpool, representing Nevada Congressman Jim Gibbons  
Mr. Randolph Townsend, Nevada State Senator  
Mr. Floyd Edsel, former Adjutant General for Nevada  
Krys T. Barr, Executive Director, Reno/Tahoe International Airport