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COMMONWEALTH OF PENNSYLVANIA
OFFICE OF THE GOVERNOR
HARRISBURG

BRAC Commission

SEP 01 2005

Received

THE GOVERNOR

The Honorable Anthony J. Principi
Chairman
Defense Base Closure and Realignment Commission
2521 S. Clark St., Ste. 600
Arlington, VA 22202

Re: 111th Fighter Wing at Willow Grove

Dear Chairman Principi:

This letter follows up on the letter that Senators Specter and Santorum sent to you yesterday concerning the value of the 111th Fighter Wing and the 911th Airlift Wing. The Commission showed great foresight and willingness to make necessary adjustments when it clarified its action with respect to the 911th Airlift Wing, Pittsburgh International Airport, to include report language enabling this important unit to keep aircraft and maintain flying operations. In light of the August 26, 2005, Opinion and Order issued by United States District Judge John R. Padova in the matter of Rendell, et al. v. Rumsfeld, Civil Action No. 05-3563 (E.D. Pa.), we urge the Commission to take similar action with regard to the 111th Fighter Wing at Willow Grove.

Last Friday, shortly before the Commission voted on the issues related to Air National Guard and Air Force Reserve installations, Judge Padova issued a final order granting our motion for summary judgment and declaring "null and void" Secretary Rumsfeld's recommendation to deactivate the 111th Fighter Wing. Although we transmitted a copy of Judge Padova's ruling to the Commission as quickly as possible, it apparently arrived after the Commission voted on the Secretary's recommendations concerning the Naval Air Station Joint Reserve Base at Willow Grove. The next day an Associated Press report stated that the ruling had "no effect" on the Commission's deliberations.

We appreciate the Commission's unilateral action to strike the proposed deactivation of the 111th Fighter Wing from the DoD recommendations and to maintain the current end-strength of this unit. However, Pennsylvania believes that Judge Padova's order declaring "null and void" that portion of Secretary Rumsfeld's report recommending deactivation of the 111th Fighter Wing means that the unit should have been maintained with its aircraft and missions intact.

As you may be aware, numerous states whose Air National Guard units have been adversely reorganized have commenced federal actions similar to the one that we filed in

The Honorable Anthony J. Principi

August 31, 2005

Page 2

the U.S. District Court for the Eastern District of Pennsylvania. Moreover, those states have successfully obtained or are now in the process of obtaining temporary restraining orders prohibiting the Commission from including in its final report the Secretary's recommendations relating to particular National Guard units. While we reserve our right to seek, now, or at a subsequent point in the BRAC process, injunctive relief enforcing Judge Padova's declaratory judgment, we are hopeful that it will not be necessary to do so, for two reasons.

First, we are confident that the Commission will regard and not ignore Judge Padova's ruling. As the United States Supreme Court noted in Franklin v. Massachusetts, 505 U.S. 788 (1992), federal agencies have an interest in acting lawfully, whether or not they are parties to actions that adjudicate questions relating to the scope of their power. For that reason, the Court assumes that "it is substantially likely that the President and other executive and congressional officials would abide by an authoritative interpretation of [a federal] statute and constitutional provision by the District Court, even though they would not be directly bound by such a determination." Id. at 804.

Second, we are confident that the situation at Willow Grove can be remedied without upsetting the wider BRAC process. We respectfully urge the Commission to include in its final report language providing that the 111th Fighter Wing should retain sufficient A-10 aircraft to maintain a meaningful flying mission now and for the foreseeable future. This could be accomplished with little, if any, disruption to the Commission's other recommendations because the aircraft could come from among the twelve A-10s currently slated for retirement and/or from adjustments of aircraft in excess of Primary Assigned Aircraft (PAA) maintained by all A-10 units. Should the Commission agree with this proposal, Governor Rendell specifically reaffirms the willingness and dedication of the Pennsylvania Air National Guard to operate Willow Grove as an Air National Guard base once the Navy leaves at some future date.

Accordingly, we recommend that the Commission include the following language in its report to the President:

The Commission recommends that DoD take affirmative action to assign an optimum number of A-10 aircraft to the 111th Fighter Wing, Pennsylvania Air National Guard. By assigning these aircraft to the 111th Fighter Wing, significant resources for recruitment and training of aircrews and maintenance personnel will be saved. This can be accomplished either by DoD not retiring 12 service capable A-10 aircraft and by allocating them to the 111th Fighter Wing or by the DoD taking action to provide A-10 aircraft to form a fifth A-10 wing using the 111th Fighter Wing of the Air National Guard located at Willow Grove, Pennsylvania.

The Honorable Anthony J. Principi

August 31, 2005

Page 3

Chairman Principi, we wish to express our sincere thanks and appreciation for the hard work undertaken and independent judgment exercised by the Commission during this most challenging BRAC process. While we have pursued and will continue to pursue all available options to ensure that the current round of base closures and realignments proceeds in accordance with other applicable laws, we have attempted to do so in a manner that allows the Commission as much latitude as possible to address the legitimate concerns surrounding the Air National Guard recommendations. We believe that our proposal concerning the 111th Fighter Wing is not only consistent with Judge Padova's ruling, but also reasonable and practical.

Very truly yours,



Edward G. Rendell

Governor, Commonwealth of Pennsylvania

cc: The Honorable Arlen Specter
United States Senate

The Honorable Rick Santorum
United States Senate