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[H.A.S.C. No. 111–8]

ACQUISITION AND DISPOSAL OF MILITARY LANDS: DEPARTMENT OF DEFENSE'S REAL PROPERTY MANAGEMENT CHALLENGES IN THE 21ST CENTURY

HEARING

BEFORE THE

READINESS SUBCOMMITTEE

OF THE

COMMITTEE ON ARMED SERVICES
HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

HEARING HELD
FEBRUARY 24, 2009

U.S. GOVERNMENT PRINTING OFFICE
49–449 WASHINGTON : 2010

For sale by the Superintendent of Documents, U.S. Government Printing Office
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CONTENTS

CHRONOLOGICAL LIST OF HEARINGS

2009

Page

HEARING:

Tuesday, February 24, 2009, Acquisition and Disposal of Military Lands: Department of Defense's Real Property Management Challenges in the 21st Century 1

APPENDIX:

Tuesday, February 24, 2009 35

TUESDAY, FEBRUARY 24, 2009

ACQUISITION AND DISPOSAL OF MILITARY LANDS: DEPARTMENT OF DEFENSE'S REAL PROPERTY MANAGEMENT CHALLENGES IN THE 21ST CENTURY

STATEMENTS PRESENTED BY MEMBERS OF CONGRESS

Forbes, Hon. J. Randy, a Representative from Virginia, Ranking Member, Readiness Subcommittee 2

Ortiz, Hon. Solomon P., a Representative from Texas, Chairman, Readiness Subcommittee 1

WITNESSES

Arny, Wayne, Deputy Under Secretary of Defense, Installations and Environment 3

Billings, Kevin W., Acting Assistant Secretary of the Air Force, Installations, Environment and Logistics 9

Eastin, Hon. Keith, Assistant Secretary of the Army, Installations and Environment 5

Penn, Hon. BJ, Assistant Secretary of the Navy, Installations and Environment 6

APPENDIX

PREPARED STATEMENTS:

Arny, Wayne 42

Butterfield, Hon. G.K. 60

Forbes, Hon. J. Randy 41

Ortiz, Hon. Solomon P. 39

DOCUMENTS SUBMITTED FOR THE RECORD:

Letters of Hon. Gene Taylor and Charles S. Abell Regarding Armed Forces Retirement Home Property Sales 63

WITNESS RESPONSES TO QUESTIONS ASKED DURING THE HEARING:

Mr. Bishop 69

Mr. Forbes 69

QUESTIONS SUBMITTED BY MEMBERS POST HEARING:

Mr. Butterfield 82

Page

QUESTIONS SUBMITTED BY MEMBERS POST HEARING—Continued
Ms. Giffords 80
Mr. Loebsack 79
Mr. Ortiz 73

ACQUISITION AND DISPOSAL OF MILITARY LANDS: DEPARTMENT OF DEFENSE'S REAL PROPERTY MANAGEMENT CHALLENGES IN THE 21ST CENTURY

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
READINESS SUBCOMMITTEE,
Washington, DC, Tuesday, February 24, 2009.

The subcommittee met, pursuant to call, at 9:05 a.m. in room 2118, Rayburn House Office Building, Hon. Solomon P. Ortiz (chairman of the subcommittee) presiding.

OPENING STATEMENT OF HON. SOLOMON P. ORTIZ, A REPRESENTATIVE FROM TEXAS, CHAIRMAN, READINESS SUBCOMMITTEE

Mr. ORTIZ. This hearing will come to order. I want to thank our distinguished witnesses for being before the subcommittee today.

Today the Readiness Subcommittee will hear about how the Department of Defense (DOD) acquires and disposes of real estate; however, before we start with the real estate details, it is important to talk about the need of the services. The need to train as we fight is fundamental to our armed forces. To this end I am surprised that the Department is just now realizing that our armed forces are significantly short of adequate training space. And I found this because, as you well know, the committee does a lot of traveling, too.

What we have thought after the latest Base Realignment and Closure (BRAC), the latest BRAC round that we had, and Grow the Force initiative, that the armed forces would have been in a better position to meet our training requirements; however, I know that after the Army completes their growth of the Army initiative, they will still have a training deficit of almost five million acres, five million acres.

I believe that it may be time to fundamentally change the method that we use to address training requirements. The development of underutilized lands is clearly in the Department's long-term interest.

On a related subject, the Department owns interest in a broad range of real estate. It is time the Department lives up to their implied covenant which exists in military installations and provide the investment to restore environmentally damaged lands. We need to allow communities the opportunity to develop, to redevelop and restore a vibrant tax base that truly allows economic development. Prompt disposal and redevelopment should be at the core of any excess land decision process.

Gentlemen, I think that we have a lot to discuss today, and I look forward to hearing how you intend to address these important issues.

[The prepared statement of Mr. Ortiz can be found in the Appendix on page 39.]

Mr. ORTIZ. The Chair recognizes the distinguished gentleman from Virginia, my good friend Mr. Forbes, for any remarks that he would like to make. Mr. Forbes.

STATEMENT OF HON. J. RANDY FORBES, A REPRESENTATIVE FROM VIRGINIA, RANKING MEMBER, READINESS SUBCOMMITTEE

Mr. FORBES. Thank you, Mr. Chairman. Once again I thank you for your leadership and for holding this hearing this morning.

And we deal with a great many critical issues on this subcommittee, as you have pointed out, from time to time, but there is probably no issue more difficult and fraught with emotion than with the use of land. This hearing addresses both the disposal property under the base closure, or BRAC, process and the acquisition of land for training. And while both aspects of real estate management are important, I believe that the acquisition of land is one of the toughest issues we face, not because it is political, but because it hits a core American value, the right to private property.

Indeed, the fifth amendment to the Constitution forbids the Federal Government from taking private property for public use without just compensation. It is, in fact, the protection of those rights that many of our citizens believe is the reason why we have military in the first place.

As weapon systems of all the military services can be employed at greater and greater distances from the target than in the past, the need for training spaces, including air, sea and land ranges has grown. At the same time the population of the United States continues to multiply, and military installations become ever more encroached by this population expansion. Finding available open space for military training is very difficult, as the Army and Navy have recently experienced.

Mr. Chairman, I am a great supporter of our military and have worked hard to ensure that the Army's planned BRAC-related growth at Fort Lee in my district goes as smoothly as possible. As you know, Fort Lee has been a military installation for some time, and the surrounding community is accustomed to military activities. However, the other end of the spectrum, the Navy wants to acquire a substantial track of rural land in Virginia and North Carolina to use as an outlying landing field, or OLF, for naval aviators to practice landing and takeoffs simulating conditions of darkness at sea.

Our pilots need realistic training to maintain their skills. At the same time that the Navy seeks or is required to use the most aggressive form to acquire private property, we must ensure that the increased value of the training matches the government encroachment on personal property rights that are guaranteed in the Constitution. The Navy must be sensitive to the concerns of the surrounding community of any proposed field as jet noise will be a

new and potentially irritating phenomenon to the heretofore peaceful rural location chosen.

Mr. Chairman, I look forward to working with you and our witnesses to manage these difficult issues to the benefit of the military services and the civilian community, and I yield back the balance of my time.

Mr. ORTIZ. Thank you, Mr. Forbes, for your good statement, great statement.

[The prepared statement of Mr. Forbes can be found in the Appendix on page 41.]

Mr. ORTIZ. Our witnesses today include Mr. Wayne Arny, Deputy Under Secretary of Defense for Installations and Environment, Department of Defense; the Honorable Keith Eastin, Assistant Secretary of the Army, Installations and Environment; the Honorable BJ Penn, Assistant Secretary of the Navy, Installations and Environment; and Mr. Kevin Billings, Acting Assistant Secretary of the Air Force, Installations, Environment and Logistics. Without objection, the witnesses' prepared testimony will be accepted for the record.

And, Secretary Arny, my good friend, I know most of the witnesses here for many years, we want to say thank you for joining us today. And it is good to see you again, Mr. Arny, and please proceed with your opening statement, sir.

STATEMENT OF WAYNE ARNY, DEPUTY UNDER SECRETARY OF DEFENSE, INSTALLATIONS AND ENVIRONMENT

Mr. ARNY. Thank you, Mr. Chairman, Congressman Forbes. It is nice to see you, sir, distinguished members of the subcommittee. I appreciate the opportunity to appear before you today to address management of real property assets within the Department.

As you have said, installations and ranges are the foundation of our security. These assets must be available when and where needed with the capabilities to support current and future military mission requirements. To meet these challenges we must continue to invest in them to preserve and enhance their military value for our training.

The linkage between test and training-range resources and military readiness is fundamental. It is directly associated with success and survival in combat. Military services provide their training requirements using broadly similar frameworks. Those frameworks include an assessment of the national strategy, our weapons and related systems, and lessons learned from previous military experience in training. If the services think they need additional property, our policy requires them to prove their requirement cannot be satisfied internally or by use of property held by another military department or federal agency. If they are successful in doing that, then they must seek DOD approval before proceeding with any major land acquisition. And before we go and procure additional land, we must have specific congressional authorization. We must also comply with the requirements of the National Environmental Policy Act, or NEPA, before making a final decision to proceed.

When DOD does acquire property, we follow the same statutory and regulatory requirements that are applicable to all federal real property acquisitions. These procedures ensure that the owners of

real property that we seek to acquire are treated fairly and consistently. Under these regulations we first make every reasonable effort to acquire the property by negotiation. These negotiations with the owner often lead to unsuccessful property conveyance. But negotiations may not be successful for a number of reasons. There may be title defects or unclear ownership interest that cannot be resolved through negotiation. An otherwise willing seller may not agree with the government's opinion of the property's fair market value, or in some cases an owner may not wish to sell regardless of price.

Only after negotiation with a property owner is unsuccessful would a military department ask the Department of Justice to initiate eminent domain proceedings. There are a lot of other details in that, but we believe these procedures balance well the government's need to acquire property for public military use with the rights of property owners to obtain just compensation when the government acquires their property.

Let me turn to property disposal under BRAC, which I know is an issue that you have asked about. I want to emphasize that it is our policy to utilize fully all means of property disposal available to us in coordination with the affected communities and in consideration of their individual circumstances.

Federal law provides us with an extensive array of legal authorities. These include transfers to other federal agencies, public benefit conveyances for the purposes such as schools or parks, economic development conveyances at cost and at no cost, negotiated sales to state or local government, conservation conveyances, and public sales. And we encourage the services to use all of these tools that are in our toolbox.

As for economic development conveyances, or EDCs, in particular, the base closure statute authorizes us to convey real and personal property to a local redevelopment authority for the purpose of job generation on a closed military installation. The base closure law for BRAC 2005 asks the military department to seek to obtain fair market value consideration for EDC conveyance; however, the same statute also permits us to grant the community an EDC without consideration, also known as a no-cost EDC, subject to statutory requirements regarding the use of the property and an agreement for a speedy transfer.

We are aware that some people have expressed an interest in amending current legislation to require that all the EDCs be at no cost, and we are told this is based on the premise that greater reliance on no-cost EDCs would generate economic recovery by speeding redevelopment of the property. We are examining this, but we are not aware of any data to support this premise.

We are also concerned this might interfere with other conveyance mechanisms that communities use, especially public benefit conveyances. Most importantly, it is our experience that rather than cost versus no-cost EDCs, the far more significant challenges to rapid property disposal and redevelopment are, one, the requirement that DOD analyze potential future reuse alternatives under NEPA before conveying property; and, two, certain environmental cleanup constraints. At locations not subject to BRAC, we also dispose of excess and surplus real property, but we use General Services Ad-

ministration (GSA), and they are essentially using the same mechanisms we do. Indeed most of our mechanisms derive directly from GSA.

In closing, Mr. Chairman, thank you for this opportunity to testify. I appreciate your continued support and look forward to continuing to work with you on these important matters.

Mr. ORTIZ. Thank you, Mr. Secretary.

[The prepared statement of Mr. Arny can be found in the Appendix on page 42.]

Mr. ORTIZ. Secretary Eastin, whenever you are ready, you can proceed with your statement, sir.

STATEMENT OF HON. KEITH EASTIN, ASSISTANT SECRETARY OF THE ARMY, INSTALLATIONS AND ENVIRONMENT

Secretary EASTIN. Thank you, Mr. Chairman, Mr. Forbes. I couldn't have said it better. My colleague Mr. Arny has about taken all the thunder I might have in this, other than I have a four-and-a-half million acres deficit that I am going have to deal with, and he has that, but somewhat more tangentially.

I will try to be brief here. I know the committee has extensive business today.

Managing the Army's real property assets from acquisition through our life cycle is an essential but complex task, and we use various tools to try to handle what our requirements are. Among the variables we must take into account are constantly evolving requirements due to our doctrinal changes. Changes in equipment, changes in technology, such as unmanned aerial vehicle use, over-the-horizon communication with other units expands what we need in our training ranges.

What we try to do, as Wayne Arny has indicated, is use land acquisition as an absolute last resort. Before we get into that, we try to manage the ranges we have in different ways so that we can get more out of them. We then seek to use adjacent federal lands for such purposes rather than trying to acquire out in the private sector. We have made extensive use of compatible use buffers where we, in effect, use private lands, but we restrict what they can do in payment to the land owners so that they will not build houses on them and encroach on what we do in our training ranges, but at the same time they can use them for agriculture and other purposes.

Last but not least, one of the major things we consider when acquiring lands is the cost-effective nature of that acquisition. We do not have restraints and unlimited money to buy these things. We budget this every year and must compete within the Department of the Army and the Department of Defense for other scarce funds, so we are very careful about what we do with that money.

And last, our technology is allowing us in some cases to use simulators rather than trying to use actual ranges for some of these, but we are very careful in going out and asking members of the public to either sell us their land, and especially we look at this very carefully when it involves some sort of taking. So we want to do that as a last resort. We have other management tools that are available to us, and we will use those where possible.

Thank you, Mr. Chairman.

Mr. ORTIZ. Thank you, sir.

Secretary Penn, good to see you again, sir. You can proceed whenever you are ready.

STATEMENT OF HON. BJ PENN, ASSISTANT SECRETARY OF THE NAVY, INSTALLATIONS AND ENVIRONMENT

Secretary PENN. Thank you, sir.

Chairman Ortiz, Representative Forbes and members of the subcommittee, I am pleased to appear before you to highlight the land management practices of the Department of the Navy. Land is and has always been a finite commodity, a precious resource that even for the seagoing service is critical to accomplishing our mission. Regardless of whether it is aboard ship, submarine or airplane, our citizens and Marines all deploy from ashore.

Land management is complex, but managing it effectively and efficiently on a life cycle basis is the Department of the Navy's objective. Our land management practices ensure that we retain only that which we require for our mission, disposing or outleasing underutilized and excess property to return it to the public's benefit. This land ownership comes with a price to the Department. The cost of owning even unimproved land includes additional security; maintaining supporting infrastructure, roads, fences, drainage; environmental and safety stewardship; and other land management activities.

We also recognize that land in Federal Government ownership removes it from local economic development potential and impacts local tax bases. The fact is that land is a valuable and finite resource, that it represents a continuous financial investment to the Department, and that federal ownership distracts from local use and improvements form the basis of the Department's longstanding position to only remove from private ownership and retain for its exclusive use the minimum necessary for the conduct of its military mission. In other words, land can be expensive to buy, expensive to maintain, and have attributes that could be put to more productive use if it were to remain available for public redevelopment, development or public use.

The Department has expanded our physical presence and land ownership as our country grew and our mission expanded. Weapons capabilities developed, and our strategies, tactics and training methods adapted to meet the threats for which we must prepare. Similarly, the Department has over time shed properties that were no longer required for changing threats and missions. The Department currently owns 4.4 million acres of land, 2.3 million in the Marine Corps and 2.1 million in the Navy.

The Department takes a life cycle approach to land management beginning with the initial planning for changing missions and weapons systems, analyzing alternatives for the provision of the shore infrastructure, focusing on the minimum required. Our Navy property holdings are continually assessed through global shore infrastructure plans and regional integration plans, which identify gaps potentially requiring acquisition and excesses or underutilization of property which may trigger disposal or outleasing actions.

Examples of planning actions involving real estate analysis include relocations of the Navy and Marine Corps forces, growing a

force, fielding of new weapons platforms, and development of new training doctrine that require additional land or airspace. To meet these requirements we first consider utilizing what we already own and analyze alternatives such as joint use with our sister services or other federal agencies and available excess federal property. We also conduct detailed analysis of the true infrastructure requirements resulting in acquisition of new land resources only, only, where necessary. This analysis is done during our planning stages as well as part of our National Environmental Policy Act compliance, or NEPA.

When non-federal land must be acquired, the Department's first approach is always to negotiate a fair and agreeable price with land owners. Other acquisition methods such as condemnation through eminent domain are only used as a last resort. Since 2004, the Department has made 93 land acquisitions of which only 13 were by condemnation.

I would like to highlight a true success story for the Department, and that is our emphasis over the last few years toward preventing negative encroachment on our installations through the use of encroachment partnering. We work with our partners, usually local government entities or nonprofit conservation associations, leveraging limited funding on both sides. Their partner will acquire land around our installations, and the Department obtains restrictive easements on that land, thus limiting development. The partners and local communities get conservation and recreation areas, while the Navy and Marine Corps installations limit encroachment that might otherwise negatively impact current and future training operations.

The Department has signed eight encroachment protection agreements with third-party partners incurring easements on over 3,400 acres near Navy installations and over 20,000 acres adjacent to Marine Corps installations. We expect to continue the successful program in fiscal year 2009 and beyond.

Our ongoing Navy regional integration plans are identifying opportunities to consolidate facilities to free up property for potential disposal or outleasing. The Navy plans to leverage the value of its underutilized property through outleasing and is pursuing several enhanced use leasing projects that will return land and facilities to public or private use as well as bring revenue or services in kind to the Navy.

Additionally, the Navy is evaluating several areas for potential outleasing for the third-party construction of renewable energy projects, helping us to meet energy goals by leveraging underutilized land. The Marine Corps is also pursuing outleasing in energy projects where land is available, balancing their needs for property to grow the Marine Corps forces.

The BRAC rounds of 1988, 1991, 1993 and 1995 were a major tool in reducing our domestic base structure and generating savings. The Department of the Navy has achieved a steady-state savings of approximately $2.7 billion per year since fiscal year 2002. All that remains is to complete the environmental clean-up and property disposal of portions of 16 of the original 91 bases, and to complete environmental clean-up on 15 installations that have been disposed.

At the end of fiscal year 2008, we disposed of 93 percent of the real property slated for closure in the first 4 rounds of BRAC. Throughout that time we used a variety of the conveyance mechanisms available for federal property disposal, including the economic development conveyance. Ninety-one percent of the BRAC real property was conveyed at no cost. Ninety-one percent of our BRAC real property was conveyed at no cost. From the remaining nine percent, the Department of the Navy received over $1.1 billion in revenues. Nearly all of this revenue has been generated since fiscal year 2003. And fiscal year 2006, we completed the sale of 3,719 acres at the former Marine Corps Air Station in El Toro, California, for $649.5 million. We also sold 167 acres at the former naval hospital in Oakland, California, for $100.5 million. Beginning in 2003, we have used these funds to accelerate environmental clean-up and to finance the entire Department of the Navy prior BRAC effort, including caretaker costs from fiscal year 2005 through fiscal year 2008.

We have put this money to good use. We have issued findings of suitability to transfer for over 10,400 acres, which enable us to continue our disposal efforts. A few of the significant disposals include the last parcels at Naval Station Charleston, South Carolina; Naval Air Station, Key West, Florida; San Pedro Housing Area for Naval Shipyard Long Beach and Naval Hospital Oakland; as well as the first parcel at Hunters Point Naval Shipyard. In addition, significant clean-up activities continue at both Hunters Point Naval Shipyard and Alameda Naval Air Station, greatly improving the protection to human health and the environment.

For our BRAC 2005 program, the Department of the Navy has projected to realize approximately $900 million per year in savings from the DOD-wide realignment of closure actions. These savings are attributed to the consolidation of missions and reduction of care and maintenance costs by closing facilities and installations. By the end of fiscal year 2008, we disposed of 7,428 acres, which equates to 43 percent of the property available for disposal. The disposals were accomplished through lease terminations, reversions, and federal and DOD agency transfers.

As communities are finalizing their reuse plans for the surplus federal property, and the Department of the Navy is completing its national environmental policy studies under the disposal actions, conveyance mechanisms have not been determined for all the installations. When the redevelopment plans are completed, the Department of the Navy will continue to work with the local communities to determine the appropriate conveyance mechanism to support the land use and the redevelopment plan.

Many factors play into developing a conveyance strategy, including environmental mitigation consideration, indemnity and liability considerations. Over the past several years we have found that EDCs do not spur economic redevelopment faster than the traditional conveyance mechanisms available to the government. The time frame for completing and of application and negotiating conveyance terms can vary from several months to several years and are required regardless of whether or not the conveyance will be for cost even after the conveyance is completed.

As we complete our efforts to dispose of the BRAC property, the Department of the Navy will continue to work with the communities to develop conveyances, strategies that result in good stewardship of federal taxpayers' assets, and provide for economic recovery to the closured communities.

In conclusion, the Department takes its land management responsibilities very seriously, as you have heard. And we work closely with our sister services and other federal agencies to ensure that our stewardship meets the Department's requirements and benefits the nation and our local communities to the maximum extent possible. We look forward to working with the new administration and Congress to expedite those actions that are of the greatest benefit to streamline economically beneficial land actions and to ensure the Department is able to fulfill its mission with the appropriate supporting infrastructure. Thank you, sir.

Mr. ORTIZ. Thank you, Mr. Secretary, for your statement.

Mr. Billings, whenever you are ready, you can proceed with your statement as well.

STATEMENT OF KEVIN W. BILLINGS, ACTING ASSISTANT SECRETARY OF THE AIR FORCE, INSTALLATIONS, ENVIRONMENT AND LOGISTICS

Mr. BILLINGS. Thank you, Mr. Chairman, Congressman Forbes, distinguished members of the subcommittee. I want to thank you for the opportunity to be here. Since this is the first time before the committee, I would like to publicly thank Mr. Arny and my colleagues from the Army and the Navy, Mr. Eastin and Mr. Penn, for their counsel and guidances.

I have come up to speed in the last six months since Mr. Donley asked me to take over Secretary of the Air Force/Installations and Environment (SAF/IE). When I took over, I laid out four basic principles to that organization. The first was to comply with the law. The second is to be good stewards of the environment. And equally importantly is to be good stewards of the taxpayers' dollars. And fourth is to do this while remembering that taking care of airmen and their families is what allows us to accomplish our mission.

Additionally, there are three enablers that allow us to effectively do our job: transparency, accessibility and consistency. And when we use this as a template for decisions in basing, these will serve the public well.

Because our installations are the platform from which we project power, the Air Force fights from its bases, real property asset management is critical to the mission's success. Much of what my colleagues have talked about are things that drive what we do in the Air Force in terms of how we dispose of land and the use of eminent domain, but I want to touch on a couple of things real quickly.

In 2005, the base realignment and closure round did not reduce the Air Force real property footprint. And our transformation inside the Air Force seeks to shrink from within and deleverage the value of our real property assets in order to meet our 20/20 by 2020 goal. This is a goal that we developed with the air staff in coordination with the Air Force Civil Engineer to achieve by the year 2020 efficiencies to offset a 20 percent reduction in funds for installation

support and reduce by 20 percent the Air Force physical plan at our bases.

And at this point I would like to take a moment here to recognize the work of General Del Eulberg and his team. General Eulberg has been tremendously supportive of me and Installations and Environment (IE) team as we have transitioned here. But, more importantly, the civil engineers are one of the most stressed career fields in the Air Force, and they continue to move forward and help us on a day-to-day basis. Whether it is here in the United States, in Balad or Gitmo, the Air Force civil engineers do a spectacular job. And I just wanted to take the opportunity to talk about that.

Finally, to be very brief, I would like to real quickly talk about the fact that the Air Force is the largest user of energy in the Federal Government, and we also have a huge amount of land. And one of the things we have done is undertaken a greenhouse gas inventory to look at the complete use of our Air Force facilities and our weapon systems, but also look at our land management, how do we use our land to best sequester and use that land to sequester carbon and use it in a fashion. So just to be very brief, I would like to again thank my colleagues and move on to questions.

Mr. ORTIZ. Thank you very much for your testimony.

I know that I have a few questions, and my colleagues also have some questions to ask from you.

Secretary Eastin, as I mentioned earlier, maybe you could explain the options that the Department is pursuing to reduce the almost five million acres required to support training. Furthermore, the Texas Army National Guard has proposed to acquire additional land at the McMullen training range site, and I thought maybe you could explain the steps that the Army is pursuing to acquire this real estate interest. And this is very important because sometimes it is there, and it is not going to be there for long. So maybe you can give us an idea how you are pursuing to deal with this land that we are talking about.

Secretary EASTIN. As I indicated before, we have a shortfall of about 4.5 million acres of training land which doctrinally we would require to adequately train our soldiers. Obviously we are going to have to work around that. I think it is unrealistic to think that we are ever going to close that gap on 4.5 million acres. Most of this is left over because most of our installations are a legacy of the Second World War, if not earlier. Their land around those are somewhat limited, in many cases severely limited, while at the same time we have that legacy, but we have rapid advance in technology in the way we fight and the equipment we use and the electronics and airborne equipment we can use.

So in terms of doctrine, we would require larger numbers of acreage around our installations. So if that is not going to be possible, and certainly probably not possible in the area of cost, certainly even if it was available, we have got to figure other ways to do that. And the other ways to do that, as I think I indicated in my earlier statement, what we try to do is manage the land we have so that we can more intensively train on it. We try to get compatible use buffers, a so-called Army Compatible Use Buffer (ACUB) Program in the Army, around our land so that it does not get fur-

ther encroached by legitimate public uses. And we pay for those ACUBs to the general public when they agree to restrict their land.

Third, we have gone to increased use of simulators so that all of the training does not have to be done with wheels or tracks on the ground. A lot of that can be done in the simulator itself, and it can get fairly realistic. That does not change the need for getting out in the dirt and communicating with each other in more lengthy distances so that we can adequately represent the situation we may find ourselves in on the ground in either, for example, Iraq or Afghanistan or some other place. We try to realistically train so our soldiers, when they get there, are not facing their environment there wholly unprepared.

Can we prepare better on some of these? Yes. We can do it more intensely on the land we have. We can do it less frequently than we would like to do so that we can get other units trained at the same time. But we look at all of the alternatives to try to close this, as I said earlier, including acquiring other federal lands that might be around our installations. And basically we try to buy from willing sellers at prices that we hope are affordable by the Army.

But as I indicated, acquiring land to close this 4.5 million—oh, that I wish—4.5-million-acre deficit in our training, acquiring land is probably the last of the alternatives. So are we ever going to get our 4.5 million acres? I personally think it is unlikely, but we are going to have to work around it.

Mr. ORTIZ. The site that we are talking about, McMullen range, do you think that 25,000 acres sounds adequate? Do you think maybe it is more acreage than that? Because you probably know what we have now. We have a facility, humidity control facility, for the Reserves close by. The reasons that we built that is to keep the equipment from rusting and having it prepared to go to train when they need it. McMullen is close by. So I know that the National Guard and the Reserves are interested in maybe using some of the equipment, but is 25,000 acres adequate?

Secretary EASTIN. I will be honest with you, Mr. Chairman, I can talk on the acquisition there. I understand that the Adjutant General in Texas has indicated that the 25,000 is adequate. Once again, if we have other acreage that is available there, and it is available from a willing seller and at a reasonable cost and can be adequately integrated into that unit, training would probably benefit from it. But right now we will be programming funds for that 25,000-acre addition. Mr. Arny's office has only recently approved this, so we are ready to go with it and in short order.

As to adequacy, I would refer you to the TAG there, and it is my understanding that that was enough.

Mr. ORTIZ. Thank you, sir.

Let me just ask one more question, and I would like for my friends to also be given the opportunity to ask questions.

Secretary Arny, the United States Congress is responding to an economic crisis at this precise moment the likes of which we have not seen in a very, very long time. Do you expect that the current process that conveys land to the public sales to be an effective tool when private financing is generally no longer available? You probably know there are a lot of people going to different financial insti-

tutions who have been in business for a long time, and they cannot get any financing. What do you think about that?

Mr. ARNY. Well, sir, we believe that the economic crisis will affect all of the methods of disposal that we use, because when you look at the overall numbers, we have only disposed of about three percent of the BRAC property by public sale, and that was during good times when there was development potential. But an economic crisis like we are in now will also affect public benefit conveyances, it will affect negotiated sales with communities, it will affect—if a community wants to develop the property themselves, it will affect them because they won't be able to get the financing they need.

So we encourage the services to use all the tools in the toolbox, and as the economic situation changes, we work with the community to decide how it is best to develop that. I think there will still be a need for housing, there will still be a need for economic development, there will still be a need for economic development conveyances at a cost and no-cost basis. So I think we will see a downturn in some of those conveyances, but as the economy turns back, it will go the other way, and we will work with the communities on going in either direction.

Mr. ORTIZ. Well, I am glad to see that you are better on the border patrol. When they are trying to build a fence, they decide that they are going to take that land, and regardless whether they want to sell it, give it or whatever, they are going to take it over, and that is it, period. I am glad we have this attitude that you will do your best to pay them an adequate price for what the land is worth. Thank you so much.

To my good friend Mr. Forbes.

Mr. FORBES. Thank you, Mr. Chairman. Once again, I want to thank you for your leadership and for holding this hearing. I think it is an incredibly important hearing for us to have, as so many of the ones that we have before this committee are.

I also want to thank each and every one of you for your service and your willingness to make what I know are very, very tough decisions. And we certainly appreciate that.

We also recognize that any time anybody comes into our office, the issue that they are talking about is the absolute most important issue to them at that particular time, and sometimes we have to keep that balance. And then we have to move back on a larger basis and say, how do we balance all of the individuals who have those issues coming before us? So I am very appreciative of the fact that you have that within each of your respective offices as well, and we have that today.

One of the tough things that we are wrestling with as a committee, and I have talked privately to many of the members both sides of the aisle, is trying to come to grips with how the Department strikes its balance and sets its priorities, because oftentimes we don't get that overview. What we get is what we get today. We get individual concerns and requests that are coming before us that we have to deal with. And it is very difficult for us to get our hands around how we are really setting our priorities and we are establishing those. And as the chairman mentioned, in the economic situation that we are in now, that is going to be vital for us to do.

Let me just give you just a couple of overlays, and I want to make some comments, and I want you to feel free to respond to them and also just to ask you a couple of questions.

We look at the Navy, for example, Secretary Penn, and we know that we have got an enormous problem with the number of ships that we have got in trying to maintain or get to a 313-ship Navy. Many people think it is very difficult for us to get there. We know the overwhelming amount of ship maintenance that we have. We know the personnel needs, the aircraft shortages that we are going to have. Then we look at situations that the Navy just came up with a few weeks ago trying to send a carrier to Mayport when we have had testimony here that they never even inquired what the percentage of risk was that would send that carrier down there. And when they asked the admiral that did the dispersal and strategic study, he said it would be very, very small, less than 10 percent, but yet we are willing to spend $1 billion there.

And then we have an overlay of the fact that, as the chairman mentioned, we have got a lot of economic concerns. And regardless of where you are on these bailout packages or stimulus packages, the ones that we have now passed, the interest alone on those programs would cover the entire budgets for the Department of Transportation, National Aeronautics and Space Administration (NASA), Homeland Security, the Federal Bureau of Investigation (FBI), the Department of Justice, the National Science Foundation, the White House, all of congressional operations, and every Army Corps of Engineers project in the country. That is just the interest.

And so we know we are wrestling with some very, very difficult issues that are out there. When we bring it back to the land acquisition part of this, one of the things I would like to look at is the OLF situation and our need for an OLF.

When Admiral Mullen was here or testified before the BRAC Commission in 2005, this is what he said: He said, the recapitalization in the Future Navy is really at the top of my list. And when I compare that versus the risk that we are taking in the training and readiness side of this, the balance is I come out in the recapitalization piece. And there is risk, but—and I think you have heard this term before—we really think it is manageable. And it isn't perfect, it isn't ideal. It is why the OLF is important to us. But at the same time we have been doing this at Oceania for 30 years. The landing pattern that you described is one that has been out there a long time. And combined with the fact that we have been through a number of wars, we have been very successful in that regard, all of us would like to be perfect; it isn't, I don't think, it clearly isn't now. But within the constraints, the overall constraints, on the readiness and training side that faces us all and the risk associated with that, I accept that risk at this point, and the training challenge is manageable.

That was Admiral Mullen's statement when he was Chief of Naval Operations (CNO).

We also had testimony from Phil Granfield, who is a retired Navy captain, that when you looked at all the statistics about where everybody was trained, he said this: He said, my conclusion after studying those conditions and restrictions of the widely varied Field Carrier Landing Practice (FCLP) facilities at each base and

each OLF was that the FCLP facility was not a factor. He goes on to say, there is no statistical difference between the capabilities of the pilots when they get to the ship based on where they were trained.

So the first question, sir, is a question I have for anyone who wants to answer that, is based on Admiral Mullen's statement then, has the Navy recapitalization picture gotten better since 2005, or is it now more difficult since 2005? I would suggest it is probably more challenging now than it was in 2005.

Has the federal budget scenario gotten better or worse since 2005? I would suggest it is tougher now.

Has the pace of China's naval expansion accelerated or slowed down since 2005, before the Navy even admitted that China was building an aircraft carrier?

And this is what Secretary Eastin mentioned: Has simulation technology not improved since 2005?

All of that addresses perhaps that balance we have between OLF acquisitions and maybe some of the other needs that we have.

And then let me just throw these questions out for you because I want other people to get their questions in. One of the toughest things that we have had is, when you are trying to make acquisitions in communities, having the acquisition process include the localities at the outset of the process. Oftentimes they feel like they are blind-sided when this takes place, and once they do the political part of it, it is incredibly difficult for them, because they hear an announcement come out that we are going to acquire this land. You have got mayors, you have got members of city councils or board of supervisors that are all of a sudden on a spot just getting bombarded, and once that train has left the station, there is no putting it back in again.

And so one of the questions I would have for you is are there any legal changes that we need to make so that you can allow localities to be a part of the process for the land acquisition sooner rather than later? How do we change that process around so that they aren't left out in the cold, and they can be actual partners, instead of having something forced down on them at a later date? And I throw that open to anybody who can help me with that.

Secretary PENN. I think I got most of your question, sir, but I would like to start with the last one first, and that is allowing localities to get in on the process early on. We have found through the OLF process and a couple other projects that we are working that that is absolutely essential, and if we don't do that, we have the same problem. It is the same problem.

One of the problems we have had, and we have discussed it just this morning, is that unfortunately in the military, people will make decisions, and in a year or two later, they are gone, they rotate out. So we need some way to carry this over from day one where one person has the control, and they run the process through its completion if that is possible.

Mr. FORBES. Let me just ask to you elaborate on that if I can. How does that impact whether our communities are involved at the outset or not involved? I understand how we could have changing decisions.

Secretary PENN. I think Admiral Anderson in Norfolk is doing a phenomenal job with that.

Mr. FORBES. I agree with that.

Secretary PENN. And he wasn't there at the beginning of the process. So, as you mentioned, he is trying to put the horse back into the barn. But I think if we had someone like Admiral Anderson there at the very beginning going out and talking to the communities, we wouldn't be experiencing what we are today. And it has been my experience that if you are fair and open with people, they will be the same with you. And if you tell them this is what we want to do, why we want to do it, how it is going to occur, and the way we are going to try to make it happen, it usually works.

I know I have talked personally with some of the folks from North Carolina, and we had a very good conversation. It was very open, very clear, and we both walked away understanding what the process was.

Mr. FORBES. Mr. Secretary, again, I don't want to interrupt you. I just want to take a limited amount of time because I want to defer to other members, but I want to be specific on this. Is it your suggestion that the problem with an OLF in Washington County, for example, was that you had the wrong personnel dealing with that process at the outset as opposed to not having the right process to be able to engage the people in Washington County?

Secretary PENN. I don't know the personnel that were involved, sir, but I think the process could have been opened. It should have been an open process, and we quite often do not do that because we are in negotiation, and it is business sensitive.

Mr. FORBES. Well, one last thing I will just say on this, and then I will yield back my time. But when the Navy was looking at an OLF in Washington County, North Carolina, I am not suggesting it should have been there or shouldn't have been there, different opinions on here, but it is my understanding that the Navy set forth to have the OLF there, and then the reason it ultimately pulled off is because of the political pressure that came on them to do that. Is that a fair statement?

Secretary PENN. Yes, sir, that is correct.

Mr. FORBES. How, then, do you go to other communities, be they in North Carolina or in Virginia, and look the leadership of those communities square in the eye and say, our number one priority, the OLF that we felt was in the best interest of the national security of the United States was in Washington County, or wherever it was, but we threw in the towel, and we are coming back to your community now because they threw up political pressure, and we weren't prepared to fight that political pressure? The unfairness of that to those communities is almost impossible to overcome because they will stand up then and say, look, if the Navy had sat back and said we are the number one site, this is where it should be, that is one thing; but to then say that because people had political pressure there, you are going to come and impose this on our community, then what you are sending out a message to all those communities to do is, first of all, one, we are not going include you in the process up front, but second, the communities that get rewarded are the ones that fight against it the most and stand up politically against it. And I don't know how you look them in the

eye and say it is a fair process, but maybe you can tell me what you are telling them, because they are not coming back to me with a great deal of comfort level in that.

Mr. ARNY. Congressman, we have discussed this before, I know, and I have been away from it for a little while, but during that process we learned a lot. Part of the problem that Mr. Penn referred to is the fact that most naval officers—and having been one myself, and both my kids have used Fentress, we all understood that the need, absolute need, for an OLF, well, what most naval officers don't deal with is land acquisition. So when the fleet decided they need it, it was really kind of in the hands of most of the people who weren't doing a lot of real estate acquisition.

So we learned the lessons as we go along. Washington—at the time the criteria was a base halfway between Cherry Point and Oceana, and Washington County looked like it was the best. We actually did procure land there, and we were going through the NEPA process. If you recall, we got sued a couple of times, and it was clear in the end that we would have won that lawsuit, okay. We would have won the lawsuit, we would have satisfied the NEPA requirements, but Congress would not fund for the rest of the procurement. So we fell back, went to the Secretary. Things had changed, and we decided, okay, the primary area we want to protect is the OLF is really necessary for Oceana.

The thing that we did differently, we learned, is we went to the governors of both states, the folks in Norfolk did, and said, where is the best place that you would put an OLF? So we worked with the representatives at the state level for those communities. What we didn't know at the time is that the governors had not talked to the local folks, so that we were again blind-sided when we made the announcement, with the state governors basically standing at our sides. The local communities had not been consulted, and we had not asked the question if they had been consulted ahead of time.

Mr. FORBES. My time is up. I just want to say that the not funding part of it is the political part of it that I am saying. And once you have crossed that area, you send a message to every locality across the country, this isn't about patriotism, it isn't about the national interest of the country, it is about the political pressure you can bring to bear to stop it in your community, which I think is difficult.

The final thing is allowing, whether it is the governor's office or whoever it is, to totally exclude the congressional delegation, state legislators and the locality is a fatal mistake that I don't know how you remedy after that. So I would just suggest that we come up with some process that guarantees that doesn't happen down the road, because I don't know how you put those horses back in the barn once they have gotten out.

Thank you, Mr. Chairman.

Mr. ORTIZ. Mr. Kissell.

Mr. KISSELL. Thank you, gentlemen, for coming today.

I think my question is somewhat open-ended. The 4.5 million acres of land that we need for the Army, I sense that you are saying we are not going to get it. At what point in time is that unrealistic and you say we're not going to get it and you reduce that num-

ber? And how seriously does that affect our ability to train and be ready if you don't get that land?

The last part of that is I just have a curiosity about this 4.5 million acres. Is that spread out across all of our bases throughout the land? In the perfect world would you have 1 million or 2 million acres of that in one place? Is it parcels here and there, or are you looking for one bigger area?

So I guess I have two questions. Number one is what happens when we realize we are not going to get it and how does that affect our readiness? And number two, how is this land composed that we are looking for? Is it small areas, big areas?

Secretary EASTIN. Congressman, let me answer your last question first. The 4.5 million acres is a compendium of each installation and what its current mission requires. If you have four brigade combat teams at, say, Fort Benning, you are going to need more acreage there to operate them in accordance with our doctrine. If you have two, you are going to have less. If you are going to some other operation, perhaps their mission is such that you won't require any acreage. But the 4.5 is systemwide domestically for the Army. It doesn't include continental United States (CONUS) operations.

Once again, I have responded to this question before, it is a little like playing golf and practicing on—I notice you are smiling, I am a real bad guy to ask about effectively training on a golf course—but you go out and practice on three holes and then you go over to Afghanistan and you have 18 holes in front of you and you are trying to extrapolate the training you had back in the States to the entire field of battle. So can you do it? Are you going to get some value? Did the training on the smaller range help? Yes, you are. Are there ways to work around it? Yes. Can you do this full boat forever? Difficult, but it can be done. It gets down to the quality of the training and whether it is as much as we would like.

So are we sending untrained soldiers? No. When they land boots on the ground over there, they are ready to go. Would we like them to have had a wider range of training opportunities? Yes. But there are some things that we would like that can't be done. And 4.5 million acres is a heck of a lot of acres.

Parenthetically, answering Congressman Forbes' earlier question about involvement of the public, if you do not get the public involved early on in your land acquisition, the public is going to involve itself in that acquisition, and they are going to come up with all sorts of ideas on what you plan to do out there. The rumor mill is alive and well, and we faced it out in Colorado with an attempted acquisition we have at Piñon Canyon. It was rumored we were coming out there, and before long the opposition people and the locals had us acquiring 7 million acres, which would have effectively taken southeast Colorado clear over to the Oklahoma border and been twice as much as we needed in our range deficit.

They will create in their minds scenarios for you that you are going to have a heck of a time getting around from a community perspective if you don't get in and get involvement with them very, very early on.

Mr. KISSELL. Just one more follow-up question. If 4.5—and I am still sensing that you don't think that is realistic, although that is

what we need—how much do you think is realistic on a reasonable time frame? And yes, it does affect our readiness, and I guess that is where I am trying to get balance to my mind. How much does practicing on 3 holes versus 18—and practicing never helped my game much at all, that is why I was smiling. Where does it effect our readiness and how much of that 4.5 million is realistic, where we start using a different number other than 4.5 million if that is not in fact realistic?

Secretary EASTIN. The 4.5 million acres arose by taking our current doctrine and how many acres per brigade combat team, be it a heavy brigade or an infantry brigade, or in some cases a Stryker brigade. They all require different areas to train on. When you collect them all together, you are going to get an area that is probably larger than the one that you currently have.

You feed this data into our strategic system and it comes back with 4.5 million. Is that a reasonable number? We take that number, and the local commanders and, in fact, our G3 sits down to see if this is realistic or not. I am not going to tell you 4.5 is absolutely what we need, or 3 million is what we need, or even more, but it needs to be tempered by some human aspect of this. And that human aspect encompasses what is available, what is likely, what is cost effective and which land, if you will, land deficits can be worked around in some other way such as the ones I have enumerated.

Mr. KISSELL. Thank you, Mr. Chairman. I yield back the balance of my time.

Mr. ORTIZ. Dr. Fleming.

Dr. FLEMING. Thank you, Mr. Chairman.

First of all, I appreciate the low-key approach of eminent domain. There have been abuses of that power by local governments, and using that as a last resort is the right way to do that.

With regards to turning bases back over, we had an ammunition plant in my district, the fourth district of Louisiana, an Army ammunition plant, that was turned back over and has become really a tremendous site of enterprise. We have 17 companies involved, we have the Youth Challenge Program, the National Guard, and so it is turning out to be a great success.

Let me turn to Fort Polk which is in my district, a very important Army base during these times. I want to commend Secretary Eastin in bringing forward the barracks modernization and also upgrade initiative at Fort Polk. I feel with the sacrifices our active duty are having to make, particularly those going overseas and on the front lines, that there is nothing that is too much to do for our active duty and their families. So I thank you, sir, for that.

Also I want to mention that I have had briefings from General Yarborough and also Colonel Sage with regard to some land acquisition issues that are going on at Fort Polk today. And they are taking a very low-key approach and trying to work with the community. I think that is very important.

But there are some tremendous needs. Specifically, Secretary Eastin, I understand that last year Fort Polk was the Army's number one land acquisition priority. Is that still the case, and where are we with that land acquisition?

Secretary EASTIN. It is one of our priorities, and it is very high up. Another one is Piñon Canyon, as I have discussed.

We have recently approved through Office of the Secretary of Defense (OSD), last summer I believe it was, the right to go ahead and look at the feasibility of acquiring 100,000 acres to add to the estate at Fort Polk. I think this is going to significantly increase the training capabilities at the Joint Readiness Training Center there. It is a very important training center for the Army, and we believe that there is adequate land within that 100,000 acres around Fort Polk that is available from willing sellers, and we plan to proceed on that and we are investigating it accordingly.

Also, I believe we are working with the communities there so that we have some outreach as to what it is we are doing and who we are planning to buy from, and to assuage their fears that we are going to come in and swoop down and take the town. We are not going to do that. We think that we have located willing sellers, and we are proceeding with that.

Dr. FLEMING. Thank you, Mr. Chairman. I yield back the balance of my time.

Mr. ORTIZ. Mr. Abercrombie from Hawaii.

Mr. ABERCROMBIE. Thank you.

Secretary Penn, Secretary Arny, in your previous service you were in the equivalent position, although our report says that you were with installations and facilities, and the title I have for Secretary Penn is Facilities and Environment. I presume they were one and the same or similar?

Mr. ARNY. I worked for Mr. Penn.

Mr. ABERCROMBIE. The Japanese government and the United States government has recently signed the latest in a series of agreements with respect to the removal of Marines from Okinawa to Guam and probably Hawaii and possibly the west coast, especially as this proceeds into the future. Your biography says that you are responsible for formulating policies, plans and procedures with respect to that agreement. My understanding is that at least the proposal as embodied in this agreement has to do with the Japanese Diet providing funds between 3 and $4 billion for family housing and other housing and facilities in Guam; that is to say, a loan.

Now I want to put you on notice that I will not be the only member of this committee, subcommittee or the full committee, which will be in opposition to that. There is no way on earth, given the recession that we have right now, let alone any of the other instances of difficulty that have already been cited in other instances here today, that you are going to do that.

You are not going to take—you are not going to take the basic allowance for housing and pay Japanese construction companies with that basic allowance for housing to allow Japanese construction companies to bring in foreign nationals to Guam or any other place, pay them whatever wage slavery sums that they put together, and then have them set the standards, have the Japanese Diet approve or disapprove what the terms and conditions of that loan are going to be, cut out the Congress of the United States, and then have them turn it over for maintenance and for management to the United States Government, which means this committee and

the appropriations committee will have to make up all of the funds for the management and the maintenance of facilities that have been built by foreign nationals and Japanese companies that will be paid by the United States.

That is not going to happen. Believe me. Hear me, Jesus, it is not going to happen. So we need to get that straight right away, okay?

Secretary PENN. Yes, sir; got it.

Mr. ABERCROMBIE. Have I misstated or incorrectly summarized the agreement at least in its rough outlines?

Secretary PENN. I think it is very clear.

Mr. ABERCROMBIE. I know I am clear, but that is what the agreement essentially says; is that right, Mr. Arny?

Mr. ARNY. I have to go back through it, but I don't believe it is a loan completely.

Mr. ABERCROMBIE. No, that is only one part of it. There is another $2.8 billion that the Japanese government proposes to put up as part of its payoff to its own people to get the Marines out.

Mr. ARNY. I do know that all U.S. hiring rules will apply on Guam.

Mr. ABERCROMBIE. Yes, that means all of the visas that we can't even get to come into the mainland of the United States, and you think that you are going to get permission to have those visas when we have double-digit unemployment. I have 15 percent unemployment on the island of Molokai right now, and I understand that there is a $42 billion deficit in the state of California, and you don't think you can find operating engineers, ironworkers in the United States right now, and in Guam, to take up the workload?

Mr. ARNY. Yes, sir, I believe we can. That is my point.

Mr. ABERCROMBIE. So this agreement, I don't know how the State Department thinks that it is going to affect it, but they can sign agreements until they are blue in the face, the Congress of the United States is still going to decide this.

Mr. ARNY. Absolutely.

Mr. ABERCROMBIE. Now, I am grateful to the Japanese government, believe me, in terms of what they have provided, but this is a Japanese and American defense treaty. They are solving a political problem with this. They are not doing this out of a charitable impulse.

Mr. ARNY. Also, as to the standards, the construction standards, we intend those standards to be our standards, not Japanese standards for housing.

Mr. ABERCROMBIE. You may intend that, but the agreement as I read it says that the Japanese Diet gets to decide the terms and conditions. You can shake your head, but as I read the agreement, there is nothing for the Congress of the United States to decide. When the State Department decided it could compel the Congress of the United States to do things is beyond me. I don't know quite how that works.

The agreement, as I read it, says that the Japanese Diet has to approve terms and conditions under which the money would be loaned, let alone the money that they intend to give. I don't blame them for that. That seems to me to be a prudent action. But the Congress of the United States ought to have at least the same

privilege. It is going to cause you a lot of problems you have to get settled right now, because the intention is to move the Marines fairly soon, and the infrastructure in Guam is nowhere, by any stretch of the imagination, even remotely prepared to deal with that right now. I am talking about the sewers, the roads, the harbor which was BRACed into oblivion—another big mistake that we made. That is one of the reasons why you are asking the Japanese Government to provide $2.8 billion for construction and facilities.

Mr. ARNY. I worked for Guam when that BRAC decision took place, and the only part that was BRACed was the shipyard, not the port.

Mr. ABERCROMBIE. I know, and the shipyard is in terrible shape. It is going to have to be refurbished, at a minimum.

Mr. ARNY. Not for the commercial side.

Mr. ABERCROMBIE. We can discuss that further. In any event, the facilities and the infrastructure in Guam is unprepared at the moment.

Let me ask you, Secretary Penn, what provisions are going to be made for the 10- to 12- to 15,000 workers that are going to come into Guam to build these facilities? What is prepared right now?

Secretary PENN. Our plan is to have the contractor provide the quarters and facilities for them. And once the construction is complete, we would like those facilities to become either housing for the university or affordable housing for the people on Guam.

Mr. ABERCROMBIE. Where is it going to be?

Secretary PENN. NEPA has not been completed. The environmental studies have not been completed. We don't know exactly where it is going to be.

Mr. ABERCROMBIE. And you are going to be able to compel the Japanese contractor to do that?

Secretary PENN. That is our hope.

Mr. ARNY. I believe we are, sir. If we don't, it doesn't work.

Secretary PENN. We have what we call a SPE, special purpose entity, which is going through all of the infrastructure. We would like to give you and anyone else on the committee a briefing on that, just so you know where we stand.

Mr. ABERCROMBIE. I have been on it right straight through.

Mr. ORTIZ. Let me tell my good friend, within the next couple of weeks, this committee is going to focus on Guam and we might be able to get more direct testimony, because that is going to be our focus. Sometimes we feel that the Department of Defense and the State Department have not been singing from the same page in many instances. And, in fact, we had somebody say the other day that the Army had more marching band members in their band than the State Department had employees in their staff. So I think that we are going to focus on that soon so that we can really get the core. My good friend has very legitimate questions to ask.

Mr. ABERCROMBIE. As you know, Secretary Penn, and Secretary Arny, I exist only to make your life easier.

Mr. ARNY. We have many instances where you have helped us a lot, sir.

Mr. ABERCROMBIE. Mr. Eastin is my witness on that.

Mr. ORTIZ. Mr. Lamborn.

Mr. LAMBORN. Thank you, Mr. Chairman.

Secretary Eastin, I would like to ask you about a proposed Army expansion in southern Colorado that was briefly mentioned earlier, Piñon Canyon.

Every private property rights advocate would agree that a landowner must be protected from unreasonable takings of their land against their will, as well as takings that do not provide just compensation.

But the other side of the coin is that private property rights must also mean that landowners should be free to sell or lease their land to whomever they wish, including the United States military.

From what I understand, some of the opponents of the Army's land expansion at Piñon Canyon are not only opposed to condemnation of unwilling sellers, but they are also opposed to willing sellers who voluntarily wish to sell or lease their land to the Army. Is that your understanding as well?

Secretary EASTIN. I have seen reports of that, and I think a press release from what we call the opposition group down there indicates that. They don't mind selling your land to whomever you like, as long as the Army isn't to whomever you like. I am at a little bit of a loss to understand that. We have worked very hard in the Piñon Canyon acquisition where we are seeking to acquire a little less than 100,000 acres down there. We have bent over backwards to address every issue that the community has raised and the opposition has raised, and still we run into that.

It is as if—and I don't want to point fingers down there—but they somehow have a deep mistrust for the Army and they are afraid if we acquire the 100,000 acres we will be back next year for 100 more, or, as I indicated before, 7 million. They have a campaign that I am not sure where it is heading, but I believe that we, the Army, have addressed all of their concerns and we would like to proceed with this.

Mr. LAMBORN. Just for the record, will the Army agree to buy or lease land at Piñon Canyon only from willing sellers, and not use property condemnation upon unwilling landowners?

Secretary EASTIN. I have said that the Army will purchase land from willing sellers. Let me be clear about this: The Army will not take land for Piñon Canyon and will not condemn land at Piñon Canyon. It will buy only from willing sellers. I don't know if we can get any clearer than that.

I have had the pleasure of having a meeting in Trinidad, Colorado with local concerned citizens. I stated that at that time. That is the Army position that I stated. We do not need to buy from unwilling sellers. The only time condemnation will be used is if someone requests it for clearing title or, as I understand it, tax purposes.

Mr. LAMBORN. Thank you.

If the Army gets permission and funding from Congress to expand Piñon Canyon, what benefits would the immediately surrounding communities receive?

Secretary EASTIN. The proposal we have made—we have been talking to several landowners there—the proposal we have made to the community, once again in public statements and in writing to the local community there, with the additional land we will construct a combined arms training center which will require, and we

have program for it, between 125 and $140 million in military construction on that Piñon Canyon.

Additionally, we will need people to operate that range. We have committed that we will hire upwards of 100 additional people that will live in the area, in the community, not on our installation but in the community. They will buy or lease houses there. They will have their cars repaired there. And they will up the volume at the local McDonald's and food stores, and live and contribute to the community. Our estimates are for Los Alamos County, and for others that don't know, it is a relatively agrarian community with less going on economically than larger cities, but we anticipate that our contribution there would be about $9 million a year in salaries alone, which would be between 5 and 6 percent increase to the, if you will, gross national product of the county. So it is going to be a significant addition to the county.

I think it will help the Army meld into the community rather than, as some of the community members now think, we drive down from Carson City, tear up the land with our tanks, buy a few Cokes at the 7-Eleven, and go back up north. We don't want to do that anymore, and we intend to correct that.

Mr. LAMBORN. I appreciate your answer.

Mr. ORTIZ. Mr. Reyes.

Mr. REYES. Thank you, gentlemen, for being here and for your service.

My question is to Secretary Eastin. We have obviously had an opportunity to visit many times on the growth that is taking place in my district, in particular with Fort Bliss, and I appreciate your support for all of that effort. But given the subject of today's hearing, I wanted to ask you about a portion of Fort Bliss that is actually not included in the future growth of the post, but it is an area that garners a tremendous amount of interest, and I am talking about Castner range which is, as you know, Secretary Eastin, is an old artillery range and it is located right up against the Franklin Mountains and has not been used by the Army for anything since the 1970s. Since that time, Castner range has gone from a very active artillery training site to what people in my district highly value; it is an open space that every spring there is now a tradition where we can go out there and see a spectacular display of desert poppies.

The concern in my district is that the Army is going to at some point reactivate Castner range and will be reutilizing it again, and they would like to keep it as open space. So my question to you is: Can you tell us whether or not the Army has any plans to reopen Castner range or maybe to develop the range for any other purpose?

Secretary EASTIN. We ceased operations on that range in 1971. Meanwhile, some 35–38 years later, El Paso has grown up around us. It would be wholly impractical to use that parcel for any range activity. We don't have any other intended uses for it. It is now bisected by a highway and just plain impractical for that sort of use. So I think you can assure your constituents that we are not going to be back there in an active way anytime soon.

Mr. REYES. Thank you, Mr. Chairman. I yield back the balance of my time.

Mr. ORTIZ. Mr. Conaway.

Mr. CONAWAY. Thank you, Mr. Chairman.

Mr. Penn and Mr. Arny, the chairman and I and some others just got back from Guam. While I don't lay claim to the veto authority and power that my good friend from Hawaii does, I am pretty concerned about that process. The folks we visited with weren't there when the original decision was made. As best we can tell, the idea of moving 8,000 Marines off Okinawa to Guam occurred as a result of a contentious meeting between Secretary Rumsfeld and, I guess, the then-Governor of Okinawa. And so part of our concern is we are going to be asked to fund a good slug of this stuff, and just understanding the backdrop of how that decision came about and how we picked the number 8,000 and what the thinking was among the administration that came up with this idea to move the Marines. Were either of you involved in any of those early decisions as to how this happened? You were just handed a statement that said move 8,000 Marines from here to there.

Secretary PENN. We were just told to do it.

Mr. CONAWAY. We will continue to try to figure that out. I don't know how our understanding will change the ultimate outcome, but it will make it easier. Who would be the person to ask who has the institutional memory or wisdom on this idea?

Mr. ARNY. I believe the chairman has a hearing scheduled in two weeks which will go into Guam. I am supposed to be there. Also, my colleagues from the policy section at DOD will be there, and we will get into that history.

Mr. CONAWAY. So during that hearing, we will have someone there who has the institutional memory of how we got from Tinker to Evers to Chance and where we are today, so that those of us who will be asked to vote on whether the U.S. pays for any of this, we can do so on a more informed basis?

Mr. ARNY. That is correct.

Mr. CONAWAY. I appreciate that. I yield back the balance of my time.

Mr. ORTIZ. Mr. Taylor.

Mr. TAYLOR. Thank you, Mr. Chairman.

Secretary Arny, at the beginning of the month I wrote Secretary Gates a letter. I hope you are familiar with it. It involves the transaction that took place in my congressional district, the Armed Forces Retirement Home. We are fortunate enough to have one of the two, purchased about 10 acres of property for about $5.7 million. They turned around and sold the two houses on the property, two very nice houses, and about 3.8 acres of land, apparently, for $1 million. This doesn't appear to be a very good business transaction for our nation. Apparently the houses were not put out for public sale. It was done I think in a questionable manner. I have a letter for you that has a number of questions that I would very much appreciate you getting me some answers to.

But more importantly, I would like to know what steps, if any, have been taken to keep something like this from happening again. Again, it appears shady at best and certainly a very, very bad business judgment on the part of the nation. And there is a limited pool of money to run that Armed Forces Retirement Home, and I don't think it was money well spent.

I would appreciate you getting back to me on these things, I would hope in two weeks. And above all, if some regulations have not been passed since this transaction to keep something like this from happening again, I need to know that, because I would certainly like to address it in this year's authorization bill so that kind of mistake isn't made again.

Mr. ARNY. Yes, sir. I heard about this yesterday. The Armed Forces Retirement Home, what little management DOD has over it, comes under the personnel section. We know there is an answer coming back to you. In researching it, the land acquisition was done by the home. It is not overseen by my office, and the lot had changed that.

I am as troubled as you when I read the articles. There is a lot that I don't know. I worked with the Armed Forces Retirement Home back in the 1980s, but I am told the entire structure has changed since then, and very little of the management comes under the DOD. I will research that. I will make sure that my Personnel and Readiness colleagues get back to you. I know we do have an answer to your letter coming through the system to you.

Mr. TAYLOR. Mr. Chairman, with your permission, I will submit this letter and the questions for the record.

[The information referred to can be found in the Appendix on page 63.]

Mr. TAYLOR. Again, I don't mean to catch you cold on this. It was not on your watch. The most important thing is that those bad management practices be changed so that it doesn't happen again.

Mr. ARNY. I agree, if that is the case, they need to be changed, but I believe we do not have any oversight over those management practices.

Mr. TAYLOR. Someone needs some oversight.

Mr. ARNY. Yes, sir.

Mr. TAYLOR. Thank you very much.

Mr. ORTIZ. Mr. Bishop.

Mr. BISHOP. Thank you, Mr. Chairman.

Once again, I had three committees holding hearings at the same time. We need some good time management practices in Congress. It is almost as bad as the military right now. I do have one thing that I would like to ask, and I will end my sentence with a question mark. So, Mr. Eastin, if you would like to respond you can, but it is half statement and half sentence.

I recognize that in your written testimony you talked about the need of having 4.5 million acres for training purposes, and I recognize some of the problems that you are facing. I also have to admit you have a large responsibility of covering dozens of bases and installations that the Army desperately needs. But I do find it unusual, that is the best word that I can say, that you have facilities that I think are still underutilized by the Army.

One of the things I am the proudest of in my district is the Utah Test and Training Range and the Dugway facility. That is a huge area out there, which we have taken great strides in both the state and the congressional delegation, to make sure that there are no encroachment issues. You would not be sued by private property owners in the Dugway training area, and you have a whole lot of land there that simply is underutilized. And I recognize, Mr. Bil-

lings, a lot of the work we have done is to make sure that the Air Force can still utilize that space.

Sometimes I get the feeling that the Army simply has blinders on and you fail to look outside the box. We would love to work with you to fill some of your needs, but I don't think that you are looking at the right area to find those needs. This is a wonderful space to solve some of your problems, and I would specifically like the Army to look at that vast area of land with no encroachment issues in an area where the state totally supports those types of endeavors.

It is frustrating to me that we still have bio level 3 labs out there in trailers on the desert. I am frustrated also that there has not been a Military Construction (MILCON) for the Tooele Army Depot in 16 years, even though more ammunition is shipped out of that spot than any other facility that you have, and it is all going from World War II loading docks. In fact, we have buildings out there that we don't have a MILCON to tear down. I don't know necessarily what happens.

What I am trying to say is, Mr. Eastin, I recognize the serious issue that you have. I would like to help you solve that problem, but I feel frustrated because time after time we seem to run up into a stone wall when we say we have solutions that can help you address some of the issues which you have. I would like you to look more seriously at some of those issues. This is a place that can be one of the solutions you have, once again in an area without encroachment and an area with popular support for this use out there. I would seriously like you to reexamine that opportunity and reexamine the potential that is out there. That is a question.

Secretary EASTIN. Thank you, Congressman.

Mr. BISHOP. Mr. Forbes said, "Will you do that?"

Secretary EASTIN. Question mark. Let me look at this stone wall and get back to you for the record on why it is that apparently you have surplus land and this cannot contribute to our training ability. I am not prepared now to speculate on why that is. We will get back and you shouldn't be left unsatisfied as to our reasons for not looking at that.

[The information referred to can be found in the Appendix on page 69.]

Mr. BISHOP. I appreciate that. I realize that I am asking a parochial issue, and you have nationwide issues to deal with.

Secretary EASTIN. I have never seen a parochial issue before, Congressman.

Mr. BISHOP. We are all parochial issues, but at the same time I really think we have the opportunity for providing some solutions, and I would appreciate that kind of interest. I thank you. That is what I think is the best response I can ask for at this stage.

Mr. ORTIZ. After consultation with the minority, I now ask unanimous consent that Mr. Butterfield, a member of the House of Representatives, be authorized to question the panel members at today's hearing. If there are no objections, I recognize Mr. Butterfield.

Mr. FORBES. Mr. Chairman, we are happy to have our distinguished colleague from North Carolina to ask any questions he may have.

Mr. ORTIZ. Mr. Butterfield.

Mr. BUTTERFIELD. Thank you, Mr. Chairman, for letting me come to this committee to say hello to our guests, and to thank the minority for your unanimous consent in letting me do this. I served on this committee some years ago and it is good to be back in this room one more time.

Before I forget, let me ask unanimous consent to include a three-page opening statement for the record.

Mr. ORTIZ. Without objection, so ordered.

[The information referred to can be found in the Appendix on page 60.]

Mr. BUTTERFIELD. Thank you.

Mr. Chairman and colleagues, for nearly eight years there has been a very contentious debate in my state over where best to site an outlying landing field to support the operations of a carrier-based fixed wing aircraft squadron from Oceana, which is in Virginia Beach, Virginia. Since my first day in this body, even when I was campaigning to get a seat in this body, I have been confronted with this issue and I have said all along that I have supported the Navy's desire to build the OLF provided it was in a place that provided a proper fit for both the Navy and our local community.

Understandably, this has proven to be an emotional issue for the people of my district regarding potential sites. The concerns of these communities—most of these are rural communities—these concerns center on the prospect of a diminished quality of life, greatly increased noise, and the potential for accidents and environmental impacts and concerns over the vast amounts of private acreage becoming public lands and going off the local tax rolls.

Secretary Penn and I have talked about this repeatedly over the years, and so I want to address this to Secretary Arny, if I can. My question to you, sir, is regardless of the final site selection of the OLF, regardless of where it is—and you and I have talked about this as well—how does the Navy intend to offset some of the concerns of the local community relating to their quality of life?

Mr. ARNY. I have been away from that issue for over a year. But I do know that the fleet—Admiral Anderson has referred to him as Hollywood—has worked very closely with the communities down there. I know that the Navy has also worked very closely with the governor and his staff to find the proper place to go. And I know at the time that the governor's staff was also working with local communities.

As far as offsetting the impact of the facility, I know that the Navy was looking at there will be jobs created at the field; not a lot, but there will be jobs. The Navy is also looking at some sort of tax benefits. We are looking at land that willing sellers would like to dispose of or would like to sell. There are a number of things.

Mr. BUTTERFIELD. What about direct investments? That is what citizens ask me about.

Mr. ARNY. There will be direct investment. We will build runways and firehouses and roads. Again, my date is a little old. I haven't had a chance to refresh on that issue, so I defer to Mr. Penn.

Secretary PENN. Current numbers, we will be employing about 60 people. The initial construction will be upwards of $200 million.

Mr. BUTTERFIELD. This is a county that doesn't have a hospital or a health center. This is a poor, rural county that is being picked on by the Navy. I don't necessarily agree with all of that, but they feel they are a victim, and they need direct investment in their county. I guess my question is: Will the Navy be willing to consider direct investment in addition to tax benefits to the county?

Mr. ARNY. Sir, we will definitely look at that.

Mr. BUTTERFIELD. You have been very supportive of my questions as I have worked with you over the years. The Navy has been extremely accessible to me and my staff, and I want to thank all of you for what you have done.

The Navy has stated recently it will not build an OLF in a community where it is not welcomed. I don't know to whom that statement is attributable, but my staff tells me the Navy has made that statement: that it will not build an OLF in a community where it is not welcome. Is that an accurate statement; and, if so, to whom should it be attributable?

Mr. ARNY. I don't know.

Secretary PENN. I don't know who made the statement either, but we are taking aircraft to Florida now to do FCLPs, which impacts our crews, the life of the aircraft, and things like that. So we are doing everything that we can to support the community in that respect.

Mr. BUTTERFIELD. Well, thank you. I am going to conclude my questions, Mr. Chairman, but I hope you would not build such a facility in a community where it is not welcomed, where it is unanimously opposed by the community.

I yield back.

Mr. ORTIZ. Ms. Bordallo.

Ms. BORDALLO. Thank you, Mr. Chairman.

Secretary Arny, it is very nice to see you back here before our committee. And Secretary Penn, thank you for testifying this morning. Mr. Eastin and Mr. Billings, thank you also for being here with us.

This question that I have is either for Secretary Arny or Secretary Penn. Gentlemen, as you are well aware, the NEPA process is ongoing on Guam and we hope to see a robust, thorough environmental impact statement some time later this spring. Now it has been reported in the Guam media that the Department is looking at private land acquisition on Guam to accommodate certain basic Marine training requirements. In light of these recent reports, some concern has been raised by members in our community on Guam about this acquisition of private lands and some question as to why not all federal lands cannot be used to accommodate these basic training requirements. So can you elaborate on why there is a need for the potential acquisition of this land?

Secretary PENN. Yes, ma'am.

Our goal when we started the initiative was to only use federal lands for this move. You are absolutely correct, we have a lot of land, and we would like to do everything we can on our own land. Through the NEPA process, we have found a couple of problems that will be sticky for us. There are four endangered species and

we have to mitigate that. That mitigation will eat into a lot of the land that we thought we could use for main containment and for ranges. If that is the case, if we cannot mitigate against that, then we may go to the Governor of Guam or private sellers—and they have approached us about selling their land—to get the additional land. That is where we are on that.

Ms. BORDALLO. Mr. Arny.

Mr. ARNY. Again, I have not looked at it directly, but that is what I understand. As you know, up in northwest field, there is an environmental overlay that perhaps shouldn't be on there. That may restrict us in using our own land, which we would prefer to do.

Ms. BORDALLO. A follow-up on that question. Can you elaborate on the process that would be used to acquire these private lands if they are deemed necessary to acquire by the record of decision? Would the Department of Defense resort to using eminent domain at all to acquire these lands? Or is the Department even contemplating or open to this particular option?

Secretary PENN. I don't think we are considering eminent domain, no, ma'am. We find in other areas, if we can lease the land, that does just as well for everyone concerned. The tax base is there, you have the land for whatever you want, and we get to use it for what we need. The Governor of Guam has talked about exchanging some land with us if we get to that point.

Ms. BORDALLO. If you get to that point. So in other words, you are looking at leasing rather than eminent domain. All right.

My third question, Mr. Chairman, I have just one quick question; finally, the Guam legislature is considering legislation at this time, I think it is bill number 43, that would, if enacted, require the Guam legislature's approval for the sale or lease of any Guam land. Obviously this would complicate any private land acquisition options for the Department. How are you working to address this particular matter, and could you inform the committee how you are specifically working with the elected leaders on Guam to address their concerns?

Secretary PENN. I just heard about this, ma'am. I know that the legislature is trying to get involved with some other things with the Governor, and we started out working with the Governor. We will continue to work with him. We will obey the law and do the right thing.

Ms. BORDALLO. I do know, Secretary Penn, and I will say for the record, that you have made every effort to work closely with our elected leaders in the legislature, and I thank you.

Thank you, Mr. Chairman.

Mr. ORTIZ. We just came back from Guam not too long ago, and their hospitality was outstanding and the people are very warm. Ms. Bordallo, thank you so much for receiving us in the manner that you all did.

Ms. BORDALLO. Thank you, Mr. Chairman.

Mr. ORTIZ. I have one more question.

Secretary Penn and Mr. Billings, the Navy and the Air Force have placed a needed emphasis on safety of flights for the military pilots and flight crews. However, I am concerned that this same level of emphasis is not provided to the local community that sur-

rounds the military installations. Could you explain your position on the need to acquire land in the accident-potential zones that in some cases exceed the confines of the military installations?

Mr. BILLINGS. Yes, sir. Since the early 1950's, the Air Force has been working with our communities to find ways to utilize the land on our bases and around our bases to make sure that we protect both the pilots and the communities in areas that could provide potential danger. In the 1970's, we created a greenbelt initiative where we looked to both acquire land and to use processes in terms of easements to find more land to create more landing zone areas. And lately the Air Installation Compatible Use Program has worked with our communities to again find the lands that are available at the end of runways and moving forward to provide more land.

We look first to work cooperatively for easements, and where necessary to buy land as a last resort, and, if at all necessary, to use eminent domain but to pay a fair market value for that. But there has been a history going back to the beginning of the Air Force and working with our communities to find the appropriate land to make sure that we can fly our missions.

Mr. ORTIZ. Because this has become a very serious problem. You know, some of the communities are very dependent on military bases because they provide good-paying jobs and retirement and so on and so forth. But what happens in some of the cities is they allow encroachment to get so close to the bases that we have had incidents where helicopters and planes have crashed. We want to be sure that we provide not only the flight crew and the pilots, for them to be safe, but also the community who resides right next to the bases. I hope you are looking at it and establishing guidelines.

At the Corpus Christi Air Base, they spoke to the city and said you cannot build in this area because of the low-flying aircraft coming in. I hope we can look at this.

Secretary PENN. We have established a community planner and liaison officer, and their sole purpose is to work with communities on issues like this, everything from the Accident Potential Zones (APZs) to the noise to prevent the encroachment, if we can. That is what happened to us in the past. No one was there to watch the encroachment as the city grew in around the bases. But now we have someone that will be there on watch.

Mr. ARNY. The Navy had folks in, I would say, the early 1990's, the bases had some staffs, but budgets were cut, the market was down. So the base commander said we don't need those folks. And we forgot to hire them back when the market went up, and so now we are going back to enforce our easements and buy up land to protect not only the pilots but also the surrounding community.

Mr. BILLINGS. Mr. Chairman, while the Air Force has worked closely with our communities, and we have outlined the zones around the airfields, it is incumbent upon the communities also to work with the Air Force so that they create zoning requirements that don't allow certain activities in those areas. They know where the areas are, and it is important that we work together to make sure that the communities also do their part in zoning those properly, because we have run into instances where the communities have zoned certain areas so that houses could be built there when

they knew that there were runways there and knew they were in APZ zones. It is a balancing act, sir.

Mr. FORBES. Mr. Chairman, I have just one follow-up to Congressman Butterfield's question.

Coming back to the OLF situation again, one of the things in countless meetings I have had—and again I just thank you all for what you do and so this is not a criticism but a question of how we do it better. In every meeting I have had regarding the OLFs, at some time the question that Congressman Butterfield laid on the table comes back, which is: What incentives can we give to the localities to help them support this decision? And every one of them is the same response that Secretary Arny just gave—and I am not being critical—"We don't know; we will get back to you."

We know we ought to have something put on the table. I have never been in one where someone pulls out a sheet of paper and says here are the possible things we can do and how can we get them laid on the table. Maybe you can respond back in writing to us at some point in time what are the incentives we can use, because it looks like to me if we don't have enough incentives, that is something we may need to be creating; because it may be economically better to give incentives to Mr. Butterfield's communities that he is talking about than trying to go somewhere else where land prices might be exorbitant.

[The information referred to can be found in the Appendix on page 69.]

But the second thing, those incentives do us no good when they come at the end of the process, because by then the community is locked into their feelings. To have any benefit at all, you have to go in at the beginning of the process, take the mayors, the board of supervisor members, and the council members and sit down and say, Here are some of the things that may help your community so they have things to want to try to help you. Right now what frustrates them and me and everybody else is we don't know what they are. Maybe they don't exist and we need to create them.

Second, how can we create the legal mechanisms to allow you to put some of those things on the table for negotiation earlier on in the process?

The final thing is, no matter how wonderful Admiral Anderson might be, when he is going to a community and saying, "but I don't have anything to give you, to offer you," it is very difficult for that community to come back and say, "Come on in and bring us all of that noise and everything else." I just throw that out. You can respond now or in writing.

Mr. ARNY. I would like to comment. I think you have hit the nail on the head. Sometimes we operate within our own rules and don't look beyond. We don't have grant authority. There are a lot of things we in the Department don't have.

If we were building another Oceana down in North Carolina, I don't think this would be an issue because we would be talking about putting in commissaries and exchanges, squadrons. We are talking about a field that we come down to at sunset and leave at midnight. So we have 60–80 jobs there. That is a plus. That is higher than when we were looking down in North Carolina originally in Washington County. But I would be very open to working

with the committee and with Congress to see if we could have the authorities to work on some sort of grant where we can make a direct investment in a community, especially at a place like this, like an outlying field which doesn't have a big infrastructure that would bring the money with it.

Mr. FORBES. As Congressman Butterfield mentioned, you may be able to help them with the health care situation, a business park or education, and be much cheaper than going to another site.

Mr. ARNY. Absolutely. As I said before, unfortunately, that is out of the control of most military officers dealing with it. They have a job to do and they go do it. You say, what about the local community, and even my experienced real estate people will sit down and tell me you don't have the authority to do that. So they are kind of in a box. But I would love to work with you all to get those kinds of incentives put in there so that we could go to the community, now it is after the fact, but say you guys are right, we worked with your representatives, here is what we can do to offset the impact of this field. It is necessary for national security, most people agree with that. We understand there is a price to pay other than the price of the land, and we want to help compensate you for that loss.

Mr. ORTIZ. Mr. Taylor.

Mr. TAYLOR. Secretary Arny, as you probably know, Hurricane Katrina hit the Mississippi gulf coast about three years ago. One of the things that really helped our military installations to help the local communities was the fact that they were self-sufficient with things like water wells and sewer treatment. The first hot meals served on the gulf coast were at the military construction battalions the day after the storm, and it wasn't happening elsewhere.

Secretary Rumsfeld had worked toward getting the bases to use community water, community sewer. Given that there is a pretty good chance there will be a Katrina-type event in the future, either an act of God or an act of man, and the importance of the bases in restoring confidence or in getting things done, I would really encourage you to give a good hard look at that. I think the fact that the bases were self-reliant was a very key factor in their ability to do a great job in south Mississippi; that the troops could go out and put in a hard day and still go home and take a hot shower and were getting hot meals and that they didn't have to go find a portal head.

So again, as you work on your strategy, I would certainly hope you would keep that in mind. I think that was a mistake on the part of the Rumsfeld group, and I hope we can get that off track.

Mr. ARNY. We will look at it, sir. There is definitely a balance needed. We need our bases to be able to operate, especially in critical areas. On the other hand, we want to privatize if it saves us money. We don't want to spend more taxpayer money on utilities, but we definitely want to understand the balance between privatization and self-sufficiency where it is critical.

As Mr. Sienicki knows, because he was down there shortly thereafter, the base does have more facilities and was able to help the community around it.

Mr. TAYLOR. Again, keep in mind that had they had to rely on community water, they probably would not have had water for

weeks. So instead of being the great asset they were, they would have been a drain on the system like so many other things.

And again, when people say what is the difference between what happened in Mississippi and what happened in New Orleans, quite frankly, we had wall-to-wall military installations to assist us and New Orleans did not. But the fact that they were self-sufficient was a very key factor in that.

Mr. ORTIZ. I think Mr. Taylor brought a valid concern to the hearing today.

Thank you for your testimony and for appearing before our committee.

Hearing no further questions, the hearing stands adjourned.

[Whereupon, at 11:04 a.m., the subcommittee was adjourned.]

A P P E N D I X

February 24, 2009

PREPARED STATEMENTS SUBMITTED FOR THE RECORD

FEBRUARY 24, 2009

ORTIZ OPENING STATEMENT,
ACQUISITION AND DISPOSAL OF MILITARY LANDS HEARING,
READINESS SUBCOMMITTEE
February 24, 2009

This hearing will come to order.

(PAUSE)

I thank our distinguished witnesses for appearing before this subcommittee today.

Today, the Readiness subcommittee will hear about how the Department acquires and disposes of real estate. However, before we start with the real estate details, it is important to talk about the needs of the Services.

The need to train as we fight is fundamental to our armed forces. To this end, I am surprised that the Department is just now realizing that our ground forces are significantly short of adequate training space.

One would have thought that after the latest BRAC round and Grow the Force initiative, that the Armed Forces would have been in a better position to meet our training requirements.

However, I note that after the Army completes their Grow the Army initiative, they will still have a training deficit of almost five million acres.

This is unacceptable and needs to be addressed.

At the same time, the Army and Marine Corps are relying on a legacy of existing installations to meet their growing requirements. Trying to expand training capacity at these legacy installations is difficult at best.

Clearly, the broad use of eminent domain at these installations to acquire land should also be discouraged.

I believe that it may be time to fundamentally change the method that we use to address training requirements. The development of underutilized lands is clearly in the Department's long-term interest.

On a related subject, the Department owns interests in a broad range of real estate. It is time the Department lives up to their implied covenant with existing military installations and provides the investment to restore environmentally damaged lands.

We need to allow communities the opportunity to redevelop and restore a vibrant tax base that truly allows economic redevelopment. Prompt disposal and redevelopment should be at the core of any excess land decision process.

Gentlemen, I think that we have a lot to discuss today, and I look forward to hearing how you intend to address these important issues.

The Chair recognizes the distinguished gentleman from Virginia, Mr. Forbes, for any remarks he would like to make.

(Mr. Forbes remarks)

Today, we have a panel of distinguished witnesses representing the Department.

Our witnesses include:
Mr Wayne Arny, Deputy Under Secretary of Defense for Installations and Environment, Department of Defense
The Honorable Keith Eastin, Assistant Secretary of the Army (Installations and Environment)

The Honorable B. J. Penn, Assistant Secretary of the Navy (Installations and Environment)
AND

Mr. Kevin Billings, Acting Assistant Secretary of the Air Force (Installations, Environment and Logistics)

Without objection, the witnesses' prepared testimony will be accepted for the record.

Secretary Arny, welcome, and it is good to see you again. Please proceed with your opening remarks.
(Secretary Arny remarks)

Secretary Eastin, you also may proceed with any opening remarks you may have.
(Secretary Eastin remarks)

Secretary Penn, it is good to see you today. You may proceed with any opening remarks.
(Secretary Penn remarks)

Secretary Billings, you may proceed with any opening remarks you may have.
(Secretary Billings remarks)

Ranking Member Forbes Opening Statement for Hearing on Military Lands and Department of Defense Real Property Management Challenges

"I thank the chairman and appreciate his holding this hearing. We deal with a great many critical issues on this subcommittee, but there is no issue more difficult and fraught with emotion than the use of land.

This hearing addresses both the disposal of property under the base closure, or BRAC process, and the acquisition of land for training. While both aspects of real estate management are important, I believe that the acquisition of land is one of the toughest issues we face—not because it is political, but because it hits a core American value, the right to private property. Indeed, the Fifth Amendment to the Constitution forbids the federal government from taking private property for public use without just compensation.

As weapons systems of all the military services can be employed at greater and greater distances from the target than in the past, the need for larger training spaces, including air, sea, and land ranges, has grown. At the same time, the population of the United States continues to multiply, and military installations become ever more encroached by this population expansion. Finding available open space for military training is very difficult, as the Army and Navy have recently experienced.

Mr. Chairman, I am a great supporter of our military and have worked hard to ensure that the Army's planned BRAC related growth at Ft. Lee, in my district, goes as smoothly as possible. As you know, Ft. Lee has been a military installation for some time and the surrounding community is accustomed to military activities.

At the other end of the spectrum, the Navy wants to acquire a substantial tract of rural land in Virginia or North Carolina to use as an outlying landing field, or OLF, for naval aviators to practice landings and takeoffs, simulating conditions of darkness at sea. Our pilots need realistic training to maintain their skills. At the same time, if the Navy seeks or is required to use the most aggressive form to acquire private property, we must ensure that the increased value of the training matches the government encroachment on personal property rights that are guaranteed in the Constitution. The Navy must be sensitive to the concerns of the surrounding community of any proposed field, as jet noise will be a new, and potentially irritating, phenomenon to the heretofore peaceful rural location chosen.

Mr. Chairman, I look forward to working with you and our witnesses to manage these difficult issues to the benefit of the military services and the civilian community."

STATEMENT OF

MR. WAYNE ARNY

DEPUTY UNDER SECRETARY OF DEFENSE

(INSTALLATIONS AND ENVIRONMENT)

BEFORE THE

SUBCOMMITTEE ON READINESS

OF THE

HOUSE ARMED SERVICES COMMITTEE

FEBRUARY 24, 2009

Chairman Ortiz, Congressman Forbes, distinguished members of the Subcommittee: I appreciate the opportunity to appear before you today to address the acquisition of real property, management of real property assets, and disposal mechanisms for Base Realignment and Closure (BRAC) and other surplus properties.

Overview

Installations and ranges are the foundation of America's security – these assets must be available when and where needed, with the capabilities to support current and future mission requirements. America's military installations and ranges, including their associated environment, must sustain the home station and forward presence of U.S. forces and support training, testing and deployments to meet the Nation's defense needs. They must provide a productive, safe, and efficient workplace, and offer the best quality of life possible for our military members and their families, as well as the civilian and contractor workforce.

To meet today's challenges, enhance DoD joint warfighting capability, prepare for the future, and ensure readiness, the Department must continually re-shape and re-size our installations framework to align with operational requirements. DoD must continue to divest excess and obsolete assets, but must also invest to preserve and enhance the military value of installations and ranges that remain after five rounds of base closures to match evolving military requirements – disposing of and acquiring installation assets, including land,

where necessary and configuring and re-configuring to optimize effectiveness and efficiency.

Ranges and Readiness

To properly prepare U.S. forces for combat, DoD training and testing must encompass all the terrain, land cover, and climate conditions that military personnel and weapon systems may encounter during deployment—deserts, mountains, coastal areas, urban areas, swamps, forests, plains, and water. The linkage between range resources and infrastructure and military readiness is fundamental. The ability to train in a realistic environment is directly associated with success and survival in combat. The DoD provides Service men and women with training opportunities that cover the full range of skills needed to ensure troops are deployed with the highest possible assurance of mission success and survival.

Ranges are critical elements of military readiness, as they:

- Provide the realistic environment needed for the development of tactics
- Enable increased force combat survivability and success
- Allow for the testing and demonstration of weapons systems maneuverability, reliability, and effectiveness
- Permit operational proficiency and mission readiness.

Developing Requirements

Training is founded on the availability of the correct range resources and infrastructure. The Military Services develop their training requirements using broadly similar, though not identical, frameworks. The framework includes an assessment of:

- The National Security Strategy of the United States
- The National Military Strategy of the United States and global security environment in which the military will operate
- Guidance for Development of the Force
- Guidance for Employment of the Force
- The Universal Joint Task List (UJTL) and Combatant Commander (CoCom) assigned Mission Essential Tasks.
- Weapons and related systems that are available today and expected to be available in the near future
- The lessons learned from previous military experience, training evolutions, and experimentation.

Out of this assessment, starting with overarching strategy, and filtering down into task-specific needs and requirements, the Services determine how they will operate in combat in the near term. From their planned operations, based on the UJTL and the Joint Mission Essential Task List (JMETL), the Services identify and develop mission essential tasks (METs). The Services then develop training plans to ensure that their forces are proficient in executing the METs.

These training plans are the foundation for the development of range resources and capabilities to support the execution of the Service's METs.

The following example illustrates how this process may result in identifying a requirement for additional land.

Twentynine Palms. The Marine Corps has identified a requirement to acquire training land and accompanying Special Use Airspace at Marine Corps Air Ground Combat Center (MCAGCC), Twentynine Palms, California, sufficient to meet the training requirements for three Marine Expeditionary Brigade (MEB) battalions, as a Ground Combat Element, and a correspondingly sized Air Combat Element to simultaneously maneuver for 48-72 hours, using combined-arms and live fire with their supporting Logistics Combat Element and Command Element. To meet MEB training requirements which utilize weapons systems and platforms currently and foreseeable in the Marine Corps inventory, more contiguous military range land and airspace than is now available for training anywhere in the United States is required. The requirement for MEB training reflects a shift in doctrine that emerged in the 1990s that placed the MEB as the premier fighting force that would be deployed to world crises in the foreseeable future. The Marine Corps studied locations nationwide that might meet the training requirements and concluded that the Southwest Region range complex is the best location to meet them. This study further determined that expansion at MCAGCC would be necessary to meet the sustained MEB training requirement for a three battalion

Ground Combat Element to maneuver to a single objective. MCAGCC is the Marine Corps' service-level training facility for Marine Air Ground Task Force training, the place through which nearly all Marine Corps units rotate for training before deployment.

Sometimes the requirements process can produce controversial acquisition plans. In these cases the Department works closely with Members of Congress and affected communities to seek a mutually acceptable way forward. Two examples of such requirements are as follows.

Navy Outlying Landing Field (OLF). Naval Air Station (NAS) Oceana is located 3.5 miles west of the Atlantic Coast in the City of Virginia Beach, Va. NAS Oceana is home to 19 strike/fighter squadrons, including the F/A 18 Super Hornet. A critical element of the strike/fighter training is Field Carrier Landing Practice (FCLP). The Navy proposes to construct an OLF that will support the FCLP operations of carrier based fixed-wing aircraft squadrons stationed at and transient to NAS Oceana, Virginia Beach, Virginia (F/A– 18C Hornet and F/A–18E/F Super Hornet squadrons and Fleet Replacement Squadrons (FRS)), and NS Norfolk Chambers Field, Norfolk, Virginia (E–2C Hawkeye, C–2A Greyhound, and E–2C/C–2A FRS). While the existing Naval Auxiliary Landing Field (NALF) Fentress will continue providing necessary support for FCLP and other training requirements, this landing field alone cannot fully support training requirements of home-based and transient aircraft from NAS Oceana and NS Norfolk Chambers

Field. Training requirements for aircraft based at these airfields can exceed NALF Fentress capacity up to 63% of the time during summertime when hours of darkness are limited. Capacity problems are further exacerbated when operational demands require surging additional carrier strike groups. A new OLF is required to provide year-round capacity to support FCLP training requirements under the Fleet Response Plan, provide operational flexibility needed to respond to emergent national defense requirements, and FCLP training consistent with at-sea operating conditions.

Piñon Canyon. Fort Carson, a U.S. Army post located near Colorado Springs, Colorado, has an associated training facility located 150 miles south-southeast called the Piñon Canyon Maneuver Site (PCMS). The U.S. Army has identified a requirement to expand PCMS to enhance training capability for the Soldiers stationed at Fort Carson. The expansion is necessary to help accommodate the increased number of Soldiers resulting from Army Growth and changes to training doctrine resulting from Army Transformation. This proposed expansion would provide sufficient space to allow a Heavy Brigade Combat Team and an Infantry Brigade Combat Team to conduct simultaneous combat training exercises. Additionally, this proposed expansion area would be used to develop a training complex capable of supporting maneuver and live fire for a combined arms battalion.

Force readiness is fundamentally linked to the quality and frequency of testing and training. Yet, many military installations are being threatened by encroachment, including urban and suburban development. DoD's Readiness and Environmental Protection Initiative (REPI), authorized by Congress in 2002, provides military departments with the authority to sign agreements with state or local governments or conservation groups to limit incompatible development of property near military bases and preserve habitat to relieve environmental restrictions on military readiness activities. DoD has been able to successfully leverage the REPI funding provided each year by Congress to protect military readiness at installations such as Naval Air Station Fallon, Nevada and Marine Corps Base Camp Lejeune, North Carolina without the need for DoD to acquire property.

In addition to ranges exclusively owned or operated by the DoD, the U.S. military also utilizes land for training and testing activities that is owned or managed by other agencies including the Bureau of Land Management (BLM), state-owned lands, and privately-owned lands subject to formal use agreements between the Department and land owners. The DoD also utilizes various air, sea, and undersea space in the US, foreign host nations, and international areas to maintain fully trained and ready forces. Before seeking to acquire additional property to meet these needs, DoD policy requires DoD components to determine

that the requirement cannot be satisfied by use of property held by another Military Department or federal agency.

DoD policy also requires prior approval by the Under Secretary of Defense (Acquisition, Technology and Logistics) before a Military Departments proceeds with any proposal to acquire 1,000 or more acres of land, or land with an estimated purchase price or annual lease price that exceeds $1 million.

Authority to Acquire Land

When DoD determines that land acquisition is required, under provisions of title 10, United States Code, DoD has standing authority to acquire low cost interests in land which do not exceed $750,000. Larger acquisitions are programmed and budgeted as part of the annual military construction program. DoD may not acquire real property not owned by the United States unless the acquisition is expressly authorized by law.

Carrying Out Authorized Land Acquisitions

Before making final decisions to acquire real property, DoD complies with the requirements of the National Environmental Policy Act to analyze the environmental impacts of proposed acquisitions. That process includes consultations with applicable regulatory agencies regarding endangered species, historic and cultural resources, and other applicable matters.

Public Law 91-646, The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, is the primary law for real property acquisition and relocation activities on all Federal or federally assisted projects and programs. Implementing regulations are published in the Code of Federal Regulations at 49 CFR Part 24. Like other federal agencies, DoD land acquisition procedures follow these requirements.

These procedures ensure that owners of real property to be acquired for Federal and federally-assisted projects are treated fairly and consistently, encourage and expedite acquisition by agreements with such owners, minimize litigation and relieve congestion in the courts, and promote public confidence in Federal and federally-assisted land acquisition programs.

Under these regulations, DoD makes every reasonable effort to acquire property expeditiously by negotiation. Before the initiation of negotiations, DoD establishes the amount it believes is just compensation, which is not less than the approved appraisal of fair market value. That appraisal is prepared under the Uniform Standards of Professional Appraisal Practice published by The Appraisal Foundation, and the Uniform Appraisal Standards for Federal Land Acquisitions, published by the Interagency Land Acquisition Conference and promulgated by the Department of Justice.

The property owner is given reasonable opportunity to consider the offer and present material which the owner believes is relevant to determining the value

of the property and to suggest modification of the proposed terms and conditions of the purchase. DoD is required to, and does, fully consider all relevant material provided by the owner.

These negotiations with the owner often lead to successful property conveyance. But negotiations can be unsuccessful for several reasons. There may be title defects or unclear ownership interests that cannot be resolved through negotiation. An otherwise willing seller may not agree with the Government's opinion of the fair market value of the property. In some cases, an owner may not wish to sell regardless of price.

Only after a negotiation with a property owner to acquire an interest in real property that is required for an authorized national defense purpose is unsuccessful, the Military Departments may ask the Department of Justice to initiate eminent domain proceedings. Under the Act of August 1, 1888 (40 USC 3113), an officer of the Federal Government authorized to acquire real property may acquire the real property for the Government by condemnation, under judicial process, when the officer believes that it is necessary or advantageous to the Government to do so.

These procedures balance the Government's need to acquire property for public use with the rights of property owners to obtain just compensation when the Government acquires their property.

Management of Real Property Assets

America's military installations, including their associated environment, have many purposes. They must sustain the regular forward and home station presence of U.S. forces as well as provide support in training and deployment to meet the Nation's need in periods of crisis, contingency, and combat. They need to ensure a productive, safe, and efficient workplace, and also offer a decent quality of life for military members and families, and the civilian and contactor workforce.

The Department's Real Property Asset Management plan, published in the form of the Defense Installations Strategic Plan, identifies specific goals and objectives to improve the fidelity of inventory reporting and tracking the metrics designed to monitor improvement progress. These goals and objectives address:

- the size and location of assets to meet required capabilities
- effective, safe, and environmentally sound living and working conditions
- informed risk management
- resourcing for high quality capabilities and optimal life-cycle investment
- continuous improvement using best business practices and asset management
- developing a high performing, agile and competent workforce.

This plan also focuses on improved asset management planning, inventory submission and performance measure data, and the disposal of unneeded assets. As part of the Federal Real Property Council's government-wide initiatives to improve real property inventory reporting, the Department continues to provide inventory and performance data to the Federal Real Property Profile annually.

One of the primary tools contributing to the improvement of data integrity has been the implementation of DoD's Real Property Inventory Requirements document. This document refines the quality of data collected by improving the specificity of the data elements requested for submission and by standardizing the data elements collected among the Military Departments. We are well along in development and implementation of a net-centric data warehouse that will directly interface with the Military Departments' native real property inventories and eliminate the old painstaking manual data collection processes that had a high potential for unintended errors.

Disposing of Property at Closed Installations

It is DoD policy to fully utilize all appropriate means to transfer property at installations closed or realigned under a base closure law. Federal law provides the Department with an array of legal authorities, including public benefit transfers for purposes such as schools or parks, economic development conveyances at cost and no cost, negotiated sales to state or local government, conservation conveyances, and public sales, by which to transfer property on closed or realigned installations. Recognizing that the variety of types of facilities available for civilian reuse and the unique circumstances of the surrounding communities does not lend itself to a single universal solution, the Department uses this array of authorities in a way that considers individual circumstances.

It is in the best interest of the Department of Defense and the affected communities to complete the disposal of real property at closed or realigned installations as rapidly as possible to expedite its reuse. The Department of Defense is committed to using the most appropriate real property conveyance authorities to support community redevelopment efforts.

Prior BRAC Disposal and Redevelopment

The Department has used the full range of transfer and conveyance authorities to dispose of real property made available in prior BRAC rounds (1988, 1991, 1993, & 1995). Property disposal is complete at 205 of 250 prior BRAC locations where property became available for disposal. Federal assistance to these locations has exceeded $1.9 Billion to date, and local redevelopment efforts in turn have resulted in the creation of over 143,700 jobs, more than offsetting the 129,600 civilian jobs that were lost across 73 prior BRAC locations where the Department of Defense Office of Economic Adjustment (OEA) is monitoring redevelopment activity.

BRAC 2005 -- Assisting Communities

The Department, through the OEA and the Defense Economic Adjustment Program, continues to work with states and the more than 147 communities across the country impacted by the effects of BRAC 2005, including Global Defense Posture Realignment, Army Modularity, and "Grow the Force" actions. The

Department has recognized Local Redevelopment Authorities (LRAs) for 116 BRAC 2005 sites to plan the redevelopment of surplus property. These LRAs are expected to provide leadership and develop a redevelopment plan at each location. In some instances LRAs may also direct implementation of the redevelopment plan. The Department is assisting these LRAs as they conduct homeless outreach and seek to balance the needs of the communities in the vicinity of the installation for economic redevelopment and other development with the needs of the homeless as required by statute. Efforts to date have yielded 95 completed redevelopment plans at BRAC 2005 locations. Once completed, a redevelopment plan is to be included as part of an application to the U.S. Department of Housing and Urban Development (HUD) for that Department's review for compliance with the statute. Following HUD's review, the Military Departments work closely with affected LRAs to tailor disposal actions that consider local circumstances. Community redevelopment plans and military conveyance plans are integrated to the extent practicable and take account of anticipated demand for surplus military land and facilities. The Military Department's National Environmental Policy Act analyses give substantial deference to the LRA's redevelopment plan.

Economic Development Conveyances (EDCs)

The base closure statute authorizes a military department to convey real and personal property to an LRA for the purpose of job generation on the installation, known as an Economic Development Conveyance (EDC). Only an LRA is

eligible to acquire property under an EDC. Under base closure law, the military department must seek to obtain fair market value consideration for EDC conveyance of property on installations approved for closure or realignment after January 1, 2005. The military departments may grant an EDC without consideration (i.e. 'no cost' EDC) subject to statutory requirements regarding use of proceeds received by the LRA from lease or conveyance of the property, and agreement by the LRA to take title to the property within a reasonable period.

We are aware that interest has been expressed in amending current legislation to require that all EDCs be at no-cost, based on the premise that greater reliance on no-cost EDCs would help generate economic recovery by speeding redevelopment of the property. However, we are not aware of data supporting that premise. Rather than cost versus no-cost EDCs, in our experience two other factors present the most significant challenges to rapid property disposal and redevelopment opportunities. The first is the requirement that DoD analyze, under the National Environmental Policy Act, potential environmental impacts of how the property might be redeveloped and used after conveyance, before DoD can convey any property. Second, as the Government Accountability Office reported in January 2005, environmental cleanup constraints cause delay in property transfer at some locations.

Our experience using the current array of legal authorities to convey base closure real property suggests that we have sufficient tools, and sufficient flexibility to use those tools, to properly address the range of needs and

circumstances encountered at closing installations and the communities that have hosted them.

Disposing of other surplus real property

At locations not subject to a base closure law, DoD disposes of excess and surplus real property following the requirements of the Federal Property and Administrative Services Act of 1949, as amended (title 40, United States Code, subtitle I, Chapter 5, subchapter III), and implementing regulations contained in the Federal Management Regulation (41 CFR Part 102-75). Under those regulations, property under the control of a military department that is not required to meet that department's needs or responsibilities is first screened within DoD to determine whether there is any further DoD need for the property. If not, the military department reports the property to the General Services Administration (GSA) for further disposal actions. GSA may transfer the property to another federal agency to meet that agency's mission needs, or dispose of it as surplus property under public benefit conveyance, negotiated sale, or public sale authorities.

Conclusion

In closing, Mr. Chairman, I sincerely thank you for this opportunity to discuss the Department's acquisition, management, and disposal of real property. To meet the ever changing warfighting landscape our military must be flexible and

responsive, and our installations and ranges must adapt and be managed to maximize that flexibility and responsiveness. I appreciate your continued support and I look forward to continuing to work with you on these important matters.

House Armed Services Committee
Readiness Subcommittee Hearing
Statement
Congressman G. K. Butterfield
February 24, 2009

For nearly eight years, there has been a contentious debate over where best to site an outlying landing field to support the operations of carrier-based fixed-wing aircraft squadrons from NAS Oceana, Virginia Beach, Virginia. Since my first day in Congress, I have supported the Navy's desire to build an OLF provided it was in a place that provided a proper fit for both the Navy and the local community.

Understandably, this has proven to be an emotional issue for the North Carolina communities considered as potential sites. The concerns of these rural communities largely center on the prospect of a diminished quality of life – greatly increased noise, the potential for accidents, environmental impacts and concerns over the vast amounts of private acreage becoming public lands and going of off local tax rolls.

While the facility would greatly benefit the communities surrounding NAS Oceana by relieving noise and encroachment concerns, in the past I have shared the sense of my communities that there would be little or no benefit to the North Carolina communities asked to shoulder this facility. All of the problems facing the Virginia Beach area would simply be shifted to our areas.

To the credit of the Navy, they have made more of an effort in this round of study to discuss the impact on the community that an OLF poses and suggest the possibility of economic aid to the region that is selected for the facility. The Navy has been extremely accessible throughout this process, and I thank them for their efforts. Thus far, however, my constituents have not wavered in their opposition.

I represent Gates County, North Carolina, and the residents there have been unanimous in their strong and passionate opposition to hosting the OLF. I support the community's position. I have met with the Navy about this issue many times, and I continue to encourage the Navy to consider the community's opposition in their evaluation of these sites.

As the House Committee on Armed Services considers this issue, I would encourage the inclusion of legislative language prohibiting the military from building on a site without first demonstrating strong support from the hosting community. This would allow the Navy to investigate sites and encourage the Navy to work with the community to achieve a mutually beneficial solution.

DOCUMENTS SUBMITTED FOR THE RECORD

FEBRUARY 24, 2009

GENE TAYLOR
4TH DISTRICT, MISSISSIPPI

COMMITTEE ON ARMED SERVICES

CHAIRMAN
SUBCOMMITTEE ON SEAPOWER AND EXPEDITIONARY FORCES

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

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February 3, 2009

The Honorable Robert Gates
Secretary of Defense
1400 Defense Pentagon
Washington, DC 20301-1400

Dear Mr. Secretary:

I write to express my concerns about the acquisition and subsequent sale of real property of the Armed Forces Retirement Home (AFRH) at Gulfport, Mississippi, occurring in 2003.

I have recently received copies of letters sent by former Principal Deputy Under Secretary of Defense for Personnel and Readiness Charles S. Abell to the chairmen of the House and Senate Armed Services Committees (dated August 6, 2003) notifying them that the AFRH intended to sell "two beachfront properties" located at 1804 and 1814 Beach Drive, Gulfport, Mississippi. For your review, I have attached copies of the aforementioned letters.

Mr. Abell's letters state that the properties "were acquired earlier this year as part of a larger property acquisition." The letters explain that the "original acquisition was for 10.02 acres of land on the eastern border of the Gulfport facility" and that the purchase price for this acreage was "$5.692 million."

According to Mr. Abell's letters, the "AFRH is currently in receipt of two offers to purchase the property from Messers. Brent Warr and Gene Warr" and he had "decided to accept these offers" which would "result in $1 million, which will be deposited into the AFRH Trust Fund." The letter, however, distinguishes that the two properties being resold to the Warrs'are "smaller" than the original 10.02 acre parcels.

As I review this transaction, the following questions come to mind:

1. At the time that AFRH purchased the original 10.02 acres, what was the property's total appraised value, including acreage and all structures on the property?
2. What was the size of the "smaller" parcels sold to the Warrs? What, if any, portions were retained by AFRH after the sale?
3. What was the appraised value of the property that the AFRH sold to the Warrs?
4. What was the sale price of the property that the AFRH sold to the Warrs?
5. According to the 2003 letters, "$1 million was to be deposited into the AFRH Trust Fund." If there was a discrepancy between the sale price and the sum deposited in the AFRH Trust Fund for these properties, what became of the balance?

6. Mr. Abell's letter described the parcels that the AFRH sold to the Warrs as beachfront properties. Where are these properties located with respect to the rest of the original purchase? Are these parcels within the boundaries of the 10.02 acres in the original purchase?

I would greatly appreciate if you could furnish answers to the questions posed above and any relevant documents on which they are based including but not limited to appraisals, deeds, financial transactions, property descriptions, sale papers, etc.

I request that you furnish the information within two weeks of receipt of this letter. If you need additional time to provide answers to these questions or have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,

Gene Taylor

GENE TAYLOR
Member of Congress

GT:sp
Enclosures (2)

CC: Hon. Ike Skelton, Chairman, House Armed Services Committee
Timothy Cox, Chief Operating Officer, AFRH

OFFICE OF THE UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

PERSONNEL AND READINESS

AUG 6 2003

The Honorable Duncan Hunter
Chairman, Armed Services Committee
U. S. House of Representatives
Washington, DC 20515

Dear Chairman Hunter:

In accordance with Title 24, U.S.C., Section 411, as amended by Section 1403 of the National Defense Authorization Act for Fiscal Year 2002, I am notifying you of a proposed disposal of real property of the Armed Forces Retirement Home (AFRH).

The AFRH wishes to sell two beachfront properties located at its Gulfport facility. The two properties, located at 1804 and 1814 Beach Drive, Gulfport, MS, Harrison County, were acquired earlier this year as part of a larger property acquisition. The original acquisition was for 10.02 acres of land on the eastern border of the Gulfport facility. The purchase price was $5.692 million.

The AFRH is currently in receipt of two offers to purchase the property from Messrs. Brent Warr and Gene Warr, local Gulfport residents (buyers). I have decided to accept these offers pending notification of the Senate and House Armed Services Committees, 120 days prior to the completion of the sale. The resale of the two smaller beachfront properties will result in $1 million, which will be deposited into the AFRH Trust Fund.

A similar letter has been sent to the Chairman, Senate Armed Services Committee.

Sincerely,

Charles S. Abell
Principal Deputy

cc:
The Honorable Ike Skelton
Ranking Member

OFFICE OF THE UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

PERSONNEL AND READINESS

AUG 6 2003

The Honorable John W. Warner
Chairman, Committee on Armed Services
United States Senate
Washington, DC 20510

Dear Chairman Warner:

In accordance with Title 24, U.S.C., Section 411, as amended by Section 1403 of the National Defense Authorization Act for Fiscal Year 2002, I am notifying you of a proposed disposal of real property of the Armed Forces Retirement Home (AFRH).

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A similar letter has been sent to the Chairman, House Armed Services Committee.

Sincerely,

Charles S. Abell
Principal Deputy

cc:
The Honorable Carl Levin
Ranking Member

WITNESS RESPONSES TO QUESTIONS ASKED DURING THE HEARING

FEBRUARY 24, 2009

RESPONSE TO QUESTION SUBMITTED BY MR. FORBES

Mr. ARNY. When DoD seeks to acquire property for an authorized DoD project, there are certain benefits and mitigations that we can provide as part of the project, but our authority is limited. The Department provides just compensation to every property owner from whom property interests, either fee simple or lesser interests such as lease or easement, are acquired. The Department provides relocation assistance benefits to any residents and businesses, including farmers, which are displaced by the project. These benefits include relocation planning and advisory services, and payments for moving expenses, replacement housing, business reestablishment, and utility service relocation. The Department mitigates environmental impacts attributable to the project to the maximum practicable extent. Under the Defense Access Road program, the Department can pay its fair share for public highway improvements resulting from sudden or unusual defense-generated impacts, if certain criteria are met. The Department can work with the local community to seek compatible private sector uses that can co-exist with the project. In the case of the OLF, this includes allowing current compatible agricultural uses of the property to continue except on the limited footprint of the actual runway and related facilities. But the Department does not have standing authority to make grants or similar payments to a local community to compensate for reduced property tax revenues, or as an incentive to promote general community support for the project. Such authority would need to be provided by the Congress as part of the project authorization. [See page 31.]

RESPONSE TO QUESTION SUBMITTED BY MR. BISHOP

Secretary EASTIN. The Army does not have excess or surplus maneuver training land capacity at any of its training installations inside the Continental United States (CONUS) where operational units are assigned. However, you are correct in pointing out that some of the Army's other installations in Utah like Dugway Proving Ground, have a lot of land. The existence of large quantities of Army or federal land does not automatically mean it is available for use in maneuver training exercises. In many cases this land may not be suitable for maneuver training because of incompatibility with their important research, development, test, and evaluation (RDT&E) missions, terrain, or environmental factors.

Assuming an RDT&E site's mission is or can be made compatible with, and available for, Army maneuver training, the next question would be where the closest Brigade Combat Team (BCT), Combat Support (CS), or Combat Service Support (CSS) units are located in relation to the RDT&E land assets. Dugway Proving Ground's main mission is testing for Chemical and Biological weapons defense. This mission quite naturally requires a very large and remote site in order to maximize safety, and minimize risks to nearby civilian populations.

Due to Dugway's very remote nature, maneuver training would entail transporting a unit's personnel and equipment from existing operational installations to Dugway to conduct collective training at the battalion and brigade level. This is not only an expensive proposition, but more importantly it takes additional time away from Soldier Families.

Normally, when an installation is looking to utilize other nearby land assets to support maneuver training, it uses a 200 mile radius as a standard factor because such a distance requires four to five hours of travel time by military convoy. Experience has shown that it becomes extremely difficult for units to organically execute distances greater than 200 miles on a regular basis. Driving distance also significantly reduces training time and increases the possibility of safety issues and unnecessary hazard to the force.

If a large portion of a unit's training were to take place more than 200 miles from the installation, the Army would look at re-alignment of the units closer to training assets to reduce these impacts. In the case of Dugway, there are insufficient infrastructure and quality of life facilities in place to accommodate stationing an Infantry or Heavy BCT unit at the site full time.

The Army did consider the possibility of stationing an Infantry BCT (IBCT) at a remote and undeveloped site during the Grow the Army stationing process. For example, the cost of stationing an IBCT at the Piñon Canyon Maneuver Site (PCMS) was compared with the cost of stationing it at Fort Carson. PCMS is an austere, dedicated maneuver site with no significant cantonment area. More than $331 million in additional infrastructure and quality of life investments to support stationing an IBCT at PCMS would be required. As a result, stationing an IBCT was rejected as an infeasible option. Stationing a major operational unit at Dugway would require a similar cost-prohibitive investment. [See page 26.]

QUESTIONS SUBMITTED BY MEMBERS POST HEARING

FEBRUARY 24, 2009

QUESTIONS SUBMITTED BY MR. ORTIZ

Mr. ORTIZ. The Army has indicated that they intend to avoid the use of eminent domain to acquire land at Piñon Canyon. How does the Department intend to use eminent domain and what restrictions has the Department placed on the Services in carrying out a condemnation using eminent domain?

Mr. ARNY. DoD follows the same statutory and regulatory requirements that apply to all federal agencies in acquiring real property, including use of condemnation authority. Under those procedures, DoD only acquires property for authorized projects to meet national defense requirements that cannot be met any other way. The Department makes every reasonable effort to acquire property by negotiation with willing sellers. Sometimes it becomes necessary to ask the Department of Justice to initiate eminent domain proceedings because: there may be title issues that DoD and the property owner cannot resolve without court proceedings; an otherwise willing seller may not agree with the DoD estimate of just compensation and wants a court to decide fair market value; in some cases, an owner of property that DoD needs to acquire as part of an authorized acquisition project may simply be unwilling to sell at any price.

Mr. ORTIZ. OSD individually approves Service requested, land acquisitions in excess of 1,000 acres. In some cases, this land acquisition process has impeded the Services from promptly responding to opportunities in acquiring land or limiting encroachment. Considering the Services are required to use MILCON process to acquire the land and the NEPA process to evaluate community concerns, is the OSD process of individually approving service requests redundant and too time consuming?

Mr. ARNY. OSD exercises oversight of major DoD land acquisition proposals to ensure they are based upon thoroughly vetted requirements that cannot be met by any other means, and are properly planned. Project planning lead times provide ample opportunity for the Services to obtain timely advance OSD review and approval without affecting acquisition schedules. OSD review also ensures that major land acquisition proposals have visibility with senior Military Department and OSD leadership before they go forward. The OSD prior approval requirement does not apply to encroachment buffer acquisitions from willing sellers under the authority of section 2684a of title 10, United States Code, provided DoD does not acquire a possessory property interest or the right to operate, test, or train on the property.

Mr. ORTIZ. The Department still retains significant tracts of land that have been declared surplus. What are the principal impediments to conveying prior BRAC lands that have been declared surplus?

Mr. ARNY. DoD has made significant progress conveying prior BRAC lands. Over 90% of prior BRAC property has been conveyed, including Leases In Furtherance Of Conveyance (LIFOC). Principal impediments to completing the remaining prior BRAC conveyances include:

- Environmental issues, including addressing unexploded ordnance, that prevent transfer until cleanup can be completed.
- Communities change reuse plans that causes the need to revise and re-negotiate previously planned property conveyances and creates additional environmental impact analysis requirements.
- Local reluctance to proceed with conveyance before all environmental cleanup is complete, even though conveyance could proceed under statutory authority for early transfer.

Mr. ORTIZ. The Department retains significant amounts of land from previous rounds of BRAC. Many of these parcels lack the environmental remediation funding to place this real estate back into productive use. In total, the Department is projecting $3.8B to complete the environmental remediation of previous rounds of BRAC. What steps is the Department taking to secure sufficient funds to complete the environmental remediation and return surplus Department real estate back to productive use for the local community?

Mr. ARNY. The Department is requesting the funds needed to support cleanup plans and schedules to complete the remaining environmental remediation. The Department programs for BRAC environmental remediation is based on cleanup plans

and schedules developed with regulators that are designed to protect human health and the environment. Along with protection of human health and the environment, these schedules must also account for the technology available and time necessary to perform the specific cleanup. A cleanup may take years to properly complete and the cost of that performance may stretch over many budget cycles. As the environmental remediation is completed, the Department continues to work with the Local Redevelopment Authority (LRA) to put the property back into productive use. Each year, the Department budgets for the BRAC environmental remediation funds to satisfy the cleanup requirements scheduled for that fiscal year.

When possible, the Department is also using the authority to transfer property before all environmental cleanup is complete, known as Early Transfer Authority. Where we can transfer property before cleanup is complete, we can save time and usually save money by integrating the cleanup with redevelopment of the property. For example, at McClellan AFB the Air Force is incrementally privatizing the cleanup of the installation in conjunction with Early Transfer Authority. Under this approach, LRAs, communities, environmental regulatory agencies, and DoD work together to strike an acceptable balance between environmental cleanup schedules and the need for economic revitalization. At other installations, DoD is using Performance-Based Remediation Contracts to more quickly implement and operate remedies to achieve "remedy operating properly and successfully" or "no-further-remediation-necessary" status, thus allowing expedited property transfers. These contracts allow the remediation contractor to craft more innovative approaches to implement and complete environmental remediation based on clear performance objectives and satisfaction of requirements established by environmental regulatory agencies.

Mr. ORTIZ. The Army has reported that it has a 5,000,000 acre training deficit across multiple installations. How does the Army intend to address the existing deficit in training space? If the Army is unable to acquire the documented deficit in real estate, will this adversely impact military readiness? How?

Secretary EASTIN. The purpose of the Department of the Army's Range and Training Land Strategy (RTLS) is to address the existing land deficit in training space facing the Army. The RTLS prioritizes Army training land investments and optimizes the use of all Army range and training land assets. The RTLS also provides a long-range plan for the Army to provide the best range infrastructure and training land to units.

The RTLS was developed in five phases. The first phase was to inventory current Army training assets. The second phase examined land values, parcel ownership, environmental constraints, environmental requirements, and population trends from public records to identify the best opportunities for training land acquisition and buffering. The third phase analyzed available land data to recommend short-term and long-term opportunities based on Army priorities. The RTLS process is designed to ensure that Army planners continually reevaluate land requirements against the Army Campaign Plan (ACP) and current Army priorities. The fourth phase was the establishment of planning objectives and the identification of installations where land acquisition supports the ACP. The fifth and final phase was to evaluate public attitudes and provide outreach support for specific land acquisitions.

The deliberate phases of the RTLS provide the framework for the Army to select the most appropriate course of action to address training land shortfalls at specific Army installations. The options that the Army can pursue to overcome the 4.5 million acre training land deficit include: focused management to maximize existing land holdings, buffering through partnerships, utilization of other federal lands where possible, and land acquisition.

Focused management. The Army Sustainable Range Program (SRP) continually strives to maximize the capability, availability, and accessibility of all Army training lands. The RTLS may indicate that a land shortfall can be addressed using internal Army or federal government mechanisms. An example of this is approach can be seen at Fort Bliss, where the Army reassessed the traditional relationship between the Fort Bliss mission and the White Sands Test Range mission to enable more training activities on the White Sands Range, and thereby mitigate training burdens on Fort Bliss lands. Unfortunately, the use of focused management does not always provide a complete solution to an installation's training land deficit. Therefore the Army must look at other alternatives to supplement more focused management.

Buffering through Partnerships. Army Compatible Use Buffers (ACUBs) allow the Army to preserve or enhance an installation's current training land capabilities by minimizing encroachment. ACUBs serve to insulate Army training from encroachment and can be used to reduce environmental restrictions to training. However, ACUBs are not always available as a viable option to mitigate critical training land deficits.

Utilization of other federal Lands. The Army examines the land status of other federal entities to mitigate land deficits at Army installations. Land that borders Army installations, and is held by the Bureau of Land Management (BLM) or Fish and Wildlife Service, may be transferred or made available to the Army after a comprehensive approval process that includes NEPA and other public reviews. Both Fort Carson and Fort Polk utilize U.S. Forest Service (USFS) lands under a special use permit. While not all training activities are permitted on USFS land, the special use permit at Fort Polk allows Army training on an additional 98,000 acres. However, the existence of large quantities of federal land does not translate automatically into useable maneuver training land capacity. Due to terrain incompatibility and environmental issues most of the millions of federal acres cannot be used for large-scale maneuver training with any meaningful degree of realism, or at all.

Land Acquisition. In some circumstances, the Army will pursue the purchase of land to mitigate training land deficiencies. The current Army position is to purchase land only where it is feasible, operationally sound, affordable, and compatible with environmental conditions and requirements. The land acquisition approach is only pursued at an installation when it is clearly established as the best solution for supporting Army training requirements to meet ACP goals.

If the Army is unable to address the documented deficit in real estate through the combined use of the alternatives identified above, there will be impacts to training capability. Commanders may have to employ 'work-arounds' to accomplish required training events. While 'work-arounds' can be successfully employed by commanders to address some training capability shortfalls, long-term use of major work-arounds can have a negative impact on the training and unit capability. Significant training land shortfalls require units, particularly at the brigade level, to develop 'work-arounds' that train units without stressing their full operational capability. This creates the risk of developing bad habits in training and imbeds false expectations as to true battlefield conditions.

Army training standards are based on lessons learned in combat and tactical wisdom purchased at great human cost. Every 'work-around' is essentially a trade-off that makes training less realistic than the conditions they will face in a combat situation. This is a particularly significant challenge with respect to operating over large operational areas, employing manned and unmanned aviation, conducting logistics operations, and using state-of-the-art communication and intelligence collection and dissemination systems that require unfettered access to the electro-magnetic spectrum.

Training capability will be impacted if the Army is unable to address training land shortfalls. Any particular unit training readiness levels are determined by commanders. Each commander must assess the degree to which work-arounds affect the unit's operational capability.

Mr. ORTIZ. The Army initially indicated that it intended to acquire over 400,000 acres of land to support the existing Piñon Canyon range. The Army has since reduced their requirements to 100,000 acres. A request for land acquisition is expected in the fiscal year 2010 budget request. Why has the Department vacillated on the acreage required to support training in Southeastern Colorado? If the Department is unable to acquire additional land in the Piñon Canyon region, will this adversely impact the stationing plan at Fort Carson? Please explain how the Department is planning to acquire land and specifically, how eminent domain is planning to be used.

Secretary EASTIN. The Army's doctrinally based requirement for at least 418,577 additional acres of training land has never been reduced, and was not challenged or questioned in the recent Government Accountability Office (GAO) report (GAO-09-171). In May 2006, Fort Carson's HQDA-approved Land Use Requirements Study (LURS) validated the need for an additional 418,577 acres of training land at Piñon Canyon Maneuver Site (PCMS) to support training for Soldiers stationed at Fort Carson. In February 2007, the Office of the Secretary of Defense (OSD) approved the Army's request for a waiver to pursue land acquisition for up to 418,577 acres at PCMS. The LURS and OSD approval were completed before the Grow the Army (GTA) decision was complete.

At the request of Congress, the Army conducted additional review and analysis of the feasibility of acquiring 418,577 acres and determined that an acquisition of 100,000 acres was feasible and would provide the greatest training benefit, at the lowest cost, the lowest acreage footprint, and with the fewest number of affected landowners and communities. While the acquisition of 100,000 acres, alone, addresses less than one quarter of the doctrinal requirement to fulfill the training land shortfall at Fort Carson/PCMS, it would provide operational benefits and enhanced training for Soldiers and units stationed at Fort Carson. If combined with the existing PCMS acreage, this expanded training area would significantly enhance the

Army's overall capability for maneuver training. Specifically, this area would provide sufficient space to allow a Heavy Brigade Combat Team (HBCT) and an Infantry Brigade Combat Team (IBCT) to conduct simultaneous combat training at PCMS.

The acquisition of the additional 300,000 acres of land would involve significant difficulties for both the Army and for the surrounding communities. The Army's primary challenge is that land acquisition resources are not unlimited. There are budgetary constraints and competing requirements for limited resources that will prevent purchase of the additional land. Additionally, engagement with community stakeholders continues to highlight a number of other issues and concerns. The Purgatoire River and existing PCMS split Las Animas County into two distinct and noncontiguous areas, and additional expansion to the west of PCMS exacerbates this issue. There are also concerns about the historic and culturally sensitive Santa Fe Trail. In addition, a larger expansion area would impact a greater number of land owners. Based on the combined impact of these factors, the Army concluded that acquisition of 418,577 acres was not suitable and reduced the scope of the potential expansion project, not the training requirement, to 100,000 acres.

The current stationing plan at Fort Carson is being analyzed along with stationing plans, Army-wide. On 6 April 2009, Secretary of Defense Gates announced the revised FY 10 Defense Budget Estimate and indicated that the Army would be reducing the total number of Brigade Combat Teams from 48 to 45. The Army is still working to determine the impacts of this announcement and consider our way ahead relative to the guidance we received in order to develop a definitive Army way forward.

With regard to the use of eminent domain, I have testified to Congress that condemnation/eminent domain will not be used to acquire or lease land at PCMS. The Army will deal only with willing property owners. Condemnation will only be used if requested by a property owner for clearing title or tax purposes. Additionally, the Army would not acquire or lease any land for military training until the conclusion of the preparation of an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA). The EIS process provides multiple opportunities for public participation and input.

I share the Committee's concern that the legitimate and legal private property rights of land owners be protected. But protecting private property rights must also include the right to sell or lease property. In America, a private landowner who wants to sell or lease property to whomever they wish—including the U.S. Army—should be free to do so without being intimidated or having their property rights vetoed by outside persons.

Mr. ORTIZ. As compared to the other Services, the Army has the largest amount of real estate from prior rounds of BRAC that remains surplus and has yet to be conveyed. What steps is the Department taking to rapidly dispose of excess land?

Secretary EASTIN. The Army remains committed to supporting communities by identifying ways to transfer the remaining acreage from prior BRAC rounds as quickly and safely as possible. The future owners of this acreage have been identified, and transfer agreements are in place. However, environmental issues prevent the transfers from occurring as expeditiously as we would like. Nearly all of the remaining acreage is contaminated with residual munitions and explosives of concern (MEC). MEC cleanup is a complex and lengthy process. We are addressing the future owners' highest priorities with the resources available, but completion of the cleanup will take a number of years.

Mr. ORTIZ. The Navy has indicated their intent to acquire 30,000 acres of real estate interests to support Navy aviation requirements. Significant local opposition has developed against the proposed OLF sites in Virginia and North Carolina. If the local community opposes the expansion of Navy real estate interests, will the Navy seek to acquire land using eminent domain? What alternatives does the Navy have if local opposition to the OLF prevails?

Secretary PENN. Department of the Navy policy is to acquire only such property or property interests that are required to meet the military mission. An Outlying Landing Field will typically include property for construction of the airfield as well as buffer and security areas sufficient to meet the mission. Property interests acquired will be the minimum necessary to meet mission requirements and would allow for continued compatible use by private property owners where possible.

The Navy will make every effort to acquire property by negotiated purchase from willing sellers and property owners will be compensated at full fair market value for all property interests to be acquired by the Navy. Eminent domain procedures will only be employed as a measure of last resort or at the request of the seller. Before commencing any legal proceeding to acquire property interests through eminent domain, the Secretary of the Navy shall pursue, to the maximum extent prac-

ticable, all other available options for the acquisition or use of the land. In the event that acquisition through eminent domain is the sole option upon which the Navy mission can move forward, then the Secretary of the Navy will submit to the appropriate committees a report as required by 10 U.S.C. 2663(f).

The proposed OLF addresses an existing critical training shortfall that the Navy safely mitigates, when necessary, by extending training throughout the night and early morning hours at NALF Fentress; by conducting training at area homebases; and by conducting detachments to OLFs located outside of the local training area. These mitigation actions result in increased training costs, increased PERSTEMPO, and increased impacts on local communities, all while impacting the quality of training.

As such, to provide the necessary facilities to train in the most realistic manner possible, the Navy has taken the necessary due diligence to address public comments and community concerns raised over this project during the last several years and fully expects to arrive at a solution that both supports our training requirements and mitigates impacts on the local community.

Mr. ORTIZ. The Navy has taken steps to secure real estate interests in areas where aviation accidents are most likely to occur. However, there remains significant real estate that could pose a threat to the local community because of aviation operations. What steps is the Navy and Marine Corps taking to limit aviation accidents to the local community? Does the Navy and Marine Corps have a program for each installation that limits aviation incidents to the local community?

Secretary PENN. The Department of Navy has a very aggressive Air Installations Compatible Use Zones (AICUZ) program focused on air operations and land use compatibility in high noise and safety zones. The DON is continually evaluating our training requirements and seeking alternatives to mitigate noise and safety concerns while preserving our mission capabilities. Through the AICUZ Program, installations work with local officials to foster compatible land use development though land use controls such as zoning. Additionally, most Navy and Marine Corps installations have a Community Plans and Liaison Officer (CPLO) on staff to work with neighboring communities to address their concerns.

Mr. ORTIZ. As compared to the other Services, the Navy has the largest amount required environmental remediation that impedes conveyance from prior rounds of BRAC. What steps is the Department taking to secure sufficient environmental remediation funds to ensure rapid disposal of excess real estate?

Secretary PENN. The Department of the Navy continues to diligently make progress on environmental remediation at prior BRAC bases. After investing over $1.1B in land sale revenue in the prior BRAC program over the last several years, the DON has resumed requesting appropriations for continued advancement of the prior BRAC environmental program. Additionally, we will apply any future land sales revenues to the cleanup budget.

Despite a dramatic increase in the program cost to complete due to discovery of pervasive low-level radioactive waste at the former Hunters Point Naval Shipyard, DON has made great progress in advancing cleanup to support conveyance and redevelopment. At the former Hunters Point Naval Shipyard, we recently signed 2 Records of Decision and have been tailoring cleanup to support the City of San Francisco's stadium redevelopment efforts. Employing an unprecedented number of treatability studies has allowed use of various technologies which are resulting in dramatically accelerated cleanup.

We are very appreciative of the continued additional Congressional support of our program and have been applying those funds to accelerate cleanup of parcels to support redevelopment priorities identified by the communities. We also intend to continue to convey property that is clean and provide a complementary Lease in Furtherance of Conveyance (LIFOC) for any areas that still required cleanup. In most cases, this facilitates redevelopment while the Navy completes cleanup actions. We are also pursuing other creative conveyance transactions whereby the recipient can receive the property and accept the clean up requirements in exchange for fair market value. This allows the property to be conveyed and cleaned up under the control of the developer with potential for saving money by combining the efforts.

Mr. ORTIZ. The Air Force has taken steps to secure real estate interests in areas where aviation accidents are most likely to occur. However, there remains significant real estate that could pose a threat to the local community because of aviation operations. What steps is the Air Force taking to limit aviation accidents to the local community? Does the Air Force have a program for each installation that limits aviation incidents to the local community?

Mr. BILLINGS. Answer 1a. The areas with the greatest accident potential is the runway, followed by the clear zone, Accident Potential Zones (APZs) I and APZ II at the end of Air Force installation runways. Air Force installations continually

work with local communities to limit development to low densities in APZs I and II. The Air Installations Compatible Use Zones (AICUZ) program discourages land uses that concentrate large numbers of people in a single area, e.g. churches, schools, auditoriums, residential, and manufacturing that involves flammable materials from being located in these two zones. Low intensity land uses such as some light industrial, wholesale trade, some business services, recreation, agriculture, and open space, mineral extraction can be compatible in APZ I if they don't create emissions that create visibility problems or attract birds. Compatible land uses for APZ II include all the ones compatible in APZ I plus a few more types of manufacturing, low intensity retail trade and low density single family residential (1-2 dwelling units per acre).

The installations and local communities can also pursue encroachment partnering projects within APZ and seek funding through OSD's Readiness and Environmental Protection Initiative (REPI) program.

Answer 1b. Yes. The Air Force conducts its aviation mishap prevention program under policy, guidance and oversight issued by the Air Force Chief of Safety. At the direction of the Air Force Chief of Safety every installation responsible for a flying mission maintains a flight safety program with the over-arching goal of preventing aviation mishaps. An important part of that goal includes preventing mishaps on and around installations where Air Force aircraft operate.

To accomplish that goal, Air Force installations incorporate mishap prevention programs in concert with community involvement, partnering, and information sharing. Some examples include:

MACA—Mid-Air Collision Avoidance programs

- Base level safety office programs required by Air Force regulation
- Community involvement is usually high
- Includes comprehensive web sites for most bases who share airspace with local flying communities/airports/FBOs
  - Can involve road-shows to local airports/flying orgs
  - Bases are required to keep and update a MACA Pamphlet for the local community on a regular basis
    - Usually contains basic information about the military base traffic pattern, procedures for passage, ATC radar codes, radio frequencies, etc.
- Very helpful for local aviators who may or may not have in-depth knowledge on the local military operations

BASH—Bird Aircraft Strike Hazard programs

- Each base develops its own procedures depending on local hazards in accordance with Air Force safety policy
- Includes risks from all wildlife, not just birds
- Many utilize local outreach programs to keep problem species from public/private land surrounding bases. Example: A border collie to harass geese on private land around McConnell AFB with landowner permission
- Local threat information is also available publicly via world wide web (Avian Hazard Assessment System [AHAS] and Bird Avoidance Model [BAM] web sites, which use historical data and Next Generation Radar [NEXRAD] data to assess strike hazards for any particular time period)

Flight Safety Participation in Airfield Certification Processes

- Airfields are designed for safe operations and to be compliant with federal laws regarding aspects of flight safety. Examples are runway clear zones, airspace considerations, etc.
- Locally, flight operations are designed to be limited over populated areas—aircraft are normally directed to turn, if practicable, prior to overflying densely populated areas
- Traffic patterns are designed to be on the less-populated side of the runway, and usually include altitude restrictions associated with each local area.
- Designated "No Fly" areas based on population density or mishap potential.
  - Each local area has different requirements
  - Surroundings areas reevaluated for population growth
- Air field certifications are reviewed on a recurring basis with Safety's participation and input

ORM—Operational Risk Management

– Risk management decisions are made at the appropriate levels
– Aircraft commanders are ultimately responsible for the safe conduct of flights
– Leadership implements control measures for increased risk due to weather, natural disaster, or anything else
– Aircrew undergo formal annual and quarterly training on risk management techniques
– Active safety mitigation strategy via Supervisor Of Flying (SOF) duties. During active flying periods, SOF personnel are on duty to aid aircrews in solving inflight emergencies. Such services may include, but are not limited to, reading emergency checklists, arranging for phone patches with Air Force System Program Offices (SPOs) or onsite engine/aircraft tech representatives to solve the emergency and safely recover the aircraft. Options also include diverting aircraft from the primary airbase to other outlying recovery bases or airfields that have been preselected prior to the actual mission.

CRM—Crew/Cockpit Resource Management

– Formal recurring training for all aircrew members which stresses risk management, crew coordination, communication skills (for example, using standard terminology with ATC), and many other factors.
– Annual simulator requirement with profiles that stress emergency procedures and safe recovery options (better to practice in the simulator first before having it happen in the aircraft).

In addition to the above listed programs, the Air Force also sponsors an aggressive foreign object damage (FOD) prevention program, and investigates local hazardous air traffic reports (HATRs) to identify and mitigate hazards to all aircraft operating in and around airfield environments.

Mr. ORTIZ. The Air Force has over 10,000 acres of real estate that remain to be conveyed and almost $1B of environmental remediation remaining to complete. What steps is the Department taking to rapidly dispose of excess land? What steps is the Department taking to secure sufficient environmental remediation funds to ensure rapid disposal of excess real estate?

Mr. BILLINGS. In 2006, the Air Force implemented a BRAC Master Plan Strategy which integrated BRAC property transfer authorities, private-sector real estate opportunities, and aggressive procurement of remaining environmental remediation into one executable road map. As part of the master plan dedicated transaction teams were developed to focus on the priorities in support of property transfer with a goal to transfer all property by 2010 with the exception of the former McClellan and George Air Force Bases, which are on projected for transfer by 2012. Other strategies incorporated in the master plan include the use of early transfer methods, open communication with stakeholders, and on-going communication with regulators.

The program requirements development process is used to plan, program and budget to adequately acquire funds for current and future environmental projects. The developed process provides consistency throughout the agency to develop accurate and reliable cost to complete estimates to program for out year funding requirements based on historical and current expenditures. In addition, the BRAC master plan includes increased use of performance base contracts which allows flexibility for environmental cleanup at a lower cost, i.e., competitive bid.

QUESTIONS SUBMITTED BY MR. LOEBSACK

Mr. LOEBSACK. The Iowa National Guard had four facilities included in the 2005 BRAC round. Of these, three, all of which are in my District, have yet to be funded. The Cedar Rapids and Middletown sites include Armed Forces Readiness Centers and Field Maintenance Shops. The Muscatine site is a Readiness Center. The facilities were built in 1916, 1950, and 1973 respectively. They are too small to support current operations, they contain asbestos, and are prone to flooding. Yet the Iowa National Guard has not received funding to improve the sites in over fifteen years. My understanding from correspondence with the Department of Defense in 2008 is that these three sites are slated for funding under BRAC 2005 in FY 2010. However, I am deeply concerned about the cost overruns and delays in the BRAC process, and I fear that the National Guard is being left behind with the possible result that the plans for the Cedar Rapids, Muscatine, and Middletown sites will have to be scaled back. Mr. Arny and Mr. Eastin, please provide me with a status update for the Cedar Rapids, Middletown, and Muscatine BRAC sites. Specifically, I would like you to provide me with information about the planned funding timeline for the

sites; whether they are being considered for funding provided by the American Economic Recovery and Reinvestment Act; and whether the original plans for those sites will still be carried out to their full intent.

Mr. ARNY. As submitted in the FY 2009 BRAC request, these projects are currently programmed for construction in FY 2010. As of this date, the Army's FY 2010 budget is not yet final, so I cannot provide you with specific details. As soon as the fiscal year 2010 President's Budget Request is released, we will be able to provide you with specific details. The Department is committed to all BRAC requirements being completed by September 15, 2011. These projects are not being considered for funding in the American Economic Recovery and Reinvestment Act.

Mr. LOEBSACK. The Iowa National Guard had four facilities included in the 2005 BRAC round. Of these, three, all of which are in my District, have yet to be funded.The Cedar Rapids and Middletown sites include Armed Forces Readiness Centers and Field Maintenance Shops. The Muscatine site is a Readiness Center. The facilities were built in 1916, 1950, and 1973 respectively. They are too small to support current operations, they contain asbestos, and are prone to flooding. Yet the Iowa National Guard has not received funding to improve the sites in over fifteen years. My understanding from correspondence with the Department of Defense in 2008 is that these three sites are slated for funding under BRAC 2005 in FY 2010. However, I am deeply concerned about the cost overruns and delays in the BRAC process, and I fear that the National Guard is being left behind with the possible result that the plans for the Cedar Rapids, Muscatine, and Middletown sites will have to be scaled back.Mr. Arny and Mr. Eastin, please provide me with a status update for the Cedar Rapids, Middletown, and Muscatine BRAC sites. Specifically, I would like you to provide me with information about the planned funding timeline for the sites; whether they are being considered for funding provided by the American Economic Recovery and Reinvestment Act; and whether the original plans for those sites will still be carried out to their full intent.

Secretary EASTIN. As of this date the DoD FY10 budget is not yet final, but the Army would prefer to fund all three of these projects. As soon as the fiscal year 2010 President's Budget Request is released, we will be able to provide you with specific details. Please be assured that the Army is working hard to complete all BRAC 2005 actions by the September 2011 statutory deadline.

The American Economic Recovery and Reinvestment Act spending plan can be downloaded at: http://www.defenselink.mil/recovery/plans__reports/2009/march/Final__ARRA__Report__to__Congress-24__Mar__09ver2.pdf

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QUESTIONS SUBMITTED BY MS. GIFFORDS

Ms. GIFFORDS. At Fort Huachuca we have a very unique situation. The need for easements extends well beyond the fence line in order to protect the very unique electromagnetic atmosphere surrounding the Fort. While the relationship between the Fort and the community is very good, the State of Arizona grants extraordinary land rights to the private individual. Increased development around the Fort presents a potential risk to the pristine testing grounds there. What is the Army's short-term and long-term plan to protect the electromagnetic testing grounds and the Fort Huachuca area from further development?

Secretary EASTIN. The Army plans to protect land around Fort Huachuca from incompatible land use with Army Compatible Use Buffers (ACUB) and improved communication on development of new facilities outside the installation that may impact electromagnetic spectrum usage. These are both current and long-term solutions.

ACUBs are authorized by 10 USC 2684a, which allows military departments to partner with government or private conservation organizations to limit development that is incompatible with installation missions. ACUB partners enter into real estate negotiations only with willing sellers. The Fort Huachuca ACUBs concentrate on sustaining the mission and maintaining ecosystem function to comply with the Endangered Species Act. The mission focus of ACUB includes preventing incompatible land use to protect the electromagnetic spectrum, protect training space for unmanned aircraft, and retain military airspace. The current objective is for the partner, The Nature Conservancy, to pursue conservation easements on the approximately 18,000 acre Babocomari Ranch located north and northeast of the installation.

Communication was enhanced by passage of state law in 2008 that requires municipalities and counties to notify military electronics range commanders of proposed rezoning or potential erection of systems on land that may impact spectrum use.

This communication gives Fort Huachuca the opportunity to educate a potential land buyer of the potential for interference due to emissions from the installation.

Ms. GIFFORDS. Given the current recession and the general decrease in demand for land and development, are you considering spending more funds now on additional real estate purchases to take advantage of the decreased prices? Could you execute additional funds if this Committee decided to provide them?

Secretary EASTIN. Current real estate market conditions do not drive land acquisitions. Land acquisitions are conducted through a comprehensive process that typically takes five or more years from requirement identification to final execution. The Office of The Secretary of Defense must approve all land acquisitions above 1,000 acres or $1 million. Also, once a requirement is identified, the Army must conduct a detailed analysis and prepare documentation in compliance with the National Environmental Policy Act. These factors make the acceleration or expansion of land purchases too risky, and therefore, the Army would not recommend additional funding for land purchases above the projects that are submitted through the Army Military Construction Budget Request.

It is important to stress that land acquisition is generally sought only when the other tools available to support mission requirements have been exhausted (such as better use of existing land assets, use of other federal lands, and compatible use buffers). Because of the long lead times and uncertainties associated with land acquisition, and the fact that they represent in a sense our 'last resort' option, we deeply appreciate Congressional support for programmed land acquisitions when they are requested through the Army Military Construction Budget process.

Ms. GIFFORDS. What acquisition method is preferable for each of your services from a land management standpoint?

Secretary EASTIN. The Army's preferred methods are donation, exchange, and purchase of lands for fee title. The extent of the interest to be acquired in real property is dependent on the use of the property. Where the use is to be exclusive, then the acquisition in fee is the more prominent method; however, where a joint use, or a use right is identified, then an interest less than fee is appropriate, such as an easement, lease, license, permit, or right of way.

While fee title is our preferred method, land acquisition methods are selected on a case-by-case basis. Our preferred approach is adapted to the facts of the case, based on feedback from willing landowners, and the process of good-faith negotiations.

Ms. GIFFORDS. The current footprint of Davis-Monthan Air Force base has remained constant but potential encroachment threatens the future of the base. On the southeastern approach, residential development is stopped by a major thoroughfare. On the northwestern approach, however, there is room for land development. As we seek to balance the needs of Tucson with the essential mission of D-M, what is the Air Force's plan to protect the D-M departure corridor from further encroachment and remediate current issues to ensure the base can continue to house the missions of the future?

Mr. BILLINGS. Davis-Monthan AFB (DMAFB) is actively engaged with the local community in addressing encroachment issues in the following ways:

1. The Arizona Department of Commerce sponsored a Joint Land Use Study (JLUS) through OSD's Office of Economic Adjustment to proactively work with stakeholders near AZ military installations. The JLUS, published by the Arizona Department of Commerce in November 2004, established recommended compatible land use criteria for areas within (a) the high hazard zones, the approach/departure corridor and (b) the 65Ldn hypothetical noise contour and higher. The JLUS recommendations are a long-range planning tool that considers safety and environmental noise generated by aircraft operations when making zoning decisions that remain compatible with the DMAFB mission. The JLUS recommendations were incorporated into (1) City of Tucson Land Use Codes and adopted by Mayor and Council in October 2004 and (2) Pima County Zoning Land Use Codes and (3) adopted by the County Board of Supervisors in December 2008. The land use codes provide future compatible development within the approach/departure corridors.

2. Davis-Monthan AFB, the City of Tucson and Pima County, are members of the Military-Community Relations Committee (MCRC). The MCRC was established as an advisory committee to provide a forum for raising and discussing concerns, joint problem solving and education focusing on military and community issues.

3. Davis-Monthan AFB has pro-actively worked to identify the area in the future that might be impacted by a mission change. The current aircraft flown are among the least noisy in the AF inventory. Recognizing a change in aircraft or mission could result in larger noise contours, DMAFB initiated a study at the request of local government in 2002 to define noise contours based upon operations with and existing aircraft that would be closer to a new single engine fighter in noise impact.

Hypothetical noise contours were developed using AICUZ noise methodology and based upon the operation of five squadrons of F-16 aircraft at DMAFB using the current flight paths. The hypothetical contours provide a better representation of noise impacts from possible future operations at DMAFB and were incorporated into the JLUS recommendations.

Ms. GIFFORDS. Given the current recession and the general decrease in demand for land and development, are you considering spending more funds now on additional real estate purchases to take advantage of the decreased prices? Could you execute additional funds if this Committee decided to provide them?

Mr. BILLINGS. The timing of Air Force real estate purchases is based on mission driven requirements and timelines independent of real estate market conditions. In exercising good stewardship of taxpayer funds, the Air Force only purchases property when the mission requires that level of real estate control so that we do not have idle, unutilized, or otherwise unproductive real estate in the Air Force inventory. However, when purchasing real estate for a validated mission requirement we seek to obtain maximum value for the taxpayer.

We have had considerable success with implementation of the community land use planning approach and have successfully collaborated with local communities using the anti-encroachment land acquisition authority in 10 USC 2684a with Readiness and Environmental Protection Initiative funds provided by Congress. We would encourage Congress to continue supporting and funding this program.

Ms. GIFFORDS. What acquisition method is preferable for each of your services from a land management standpoint?

Mr. BILLINGS. The Air Force policy is to acquire the minimum interest in land required to support mission requirements. In determining the acquisition method, we consider the purpose, when, and for how long the real estate is needed. We first consider using Air Force real estate already in the inventory or property excess to the requirements of other military departments or other federal agencies. Fee simple purchase is considered when constructing permanent improvements, the intended use is of an extended or indefinite duration, or when the Air Force feels current local community land use controls are not adequate to provide compatible land use jurisdiction needed to support the mission. Acquisition by lease is considered for short duration mission requirements where acquisition by purchase is not economical. A restrictive easement may be acquired if the purpose is to control development adjacent to or near an installation that is incompatible with the mission.

QUESTIONS SUBMITTED BY MR. BUTTERFIELD

Mr. BUTTERFIELD. The Navy has been extremely accessible throughout this process, and I thank them for their efforts. The Navy has stated that it would not build an OLF in a community where it was not welcome. Would there be any objection to the inclusion of legislative language prohibiting the military from building on a site without first demonstrating strong support from the hosting community?

Mr. ARNY. The Department would have significant concerns about any proposed legislative language prohibiting the military from carrying out a project to meet a national defense requirement without first demonstrating strong support from the hosting community.

During the site selection process and into the present, Navy representatives have stated the Navy's desire to provide some mutual benefit for the community in the vicinity of the selected site for the OLF. Those representatives have consistently asserted that the Navy, working with federal and state officials, would like to create conditions where a community would actually prefer that their site would be selected, due to economic advantages provided. No Navy representative, however, has ever intentionally stated that the Navy would not build an OLF in a community where it was not welcome.

The Navy recognizes the potential impacts of the proposed OLF on the local communities at each of the five proposed sites in North Carolina and Virginia and is analyzing those potential impacts very carefully in the ongoing Environmental Impact Statement. The Navy also recognizes that there may be no feasible site to meet this naval aviation training requirement that does not have a certain degree of opposition. But the Navy will continue to work with public and private agencies and organizations, and with elected and appointed officials at the local, state, and federal level, to identify economic opportunities for the proposed OLF site that would be compatible with aviation training operations and align with community plans for growth and development.

Mr. BUTTERFIELD. You mentioned as you have in previous meetings with me that this process would engage the Office of Economic Adjustment, but to date I'm still

not clear on how that process would work should the OLF be sited in my district. Therefore, my constituents still lack a clear sense of any upside. Can you offer some specifics on how the Office of Economic Adjustment would work with local and state governments?

Mr. ARNY. The Office of Economic Adjustment (OEA) manages and directs the Defense Economic Adjustment Program, and assists states and local governments impacted by Department of Defense program changes in planning community adjustments. Following an OLF basing decision by the cognizant Military Department, OEA will work with affected jurisdictions to tailor an appropriate community adjustment program to address the impacts of that basing decision. The assistance provided may include technical and financial assistance, including compatible use studies and fiscal impact analyses, and will require the participation, cooperation, and commitment of the affected state, community and Military Department.

Mr. BUTTERFIELD. The Navy has been extremely accessible throughout this process, and I thank them for their efforts. The Navy has stated that it would not build an OLF in a community where it was not welcome. Would there be any objection to the inclusion of legislative language prohibiting the military from building on a site without first demonstrating strong support from the hosting community?

Secretary PENN. The Department would strongly oppose any proposed legislative language prohibiting the military from carrying out a project to meet a national defense requirement without first demonstrating strong support from the hosting community.

During the site selection process and into the present, Navy representatives have stated the Navy's desire to provide some mutual benefit for the community in the vicinity of the selected site for the OLF. Those representatives have consistently asserted that the Navy, working with federal and state officials, would like to create conditions where a community would actually prefer that their site would be selected, due to economic advantages provided. Navy representatives have never intentionally created the perception that that the Navy would not build an OLF in a community where it was unwelcome.

The Navy recognizes the potential impacts of the proposed OLF on the local communities at each of the five proposed sites in North Carolina and Virginia and is analyzing those potential impacts very carefully in the ongoing Environmental Impact Statement. The Navy recognizes that there may be no feasible site to meet this training requirement that does not have a certain degree of opposition. But the Navy will continue to work with public and private agencies and organizations, and with elected and appointed officials at the local, state, and federal level, to identify economic opportunities for the proposed OLF site that would be compatible with aviation training operations and align with community plans for growth and development.

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