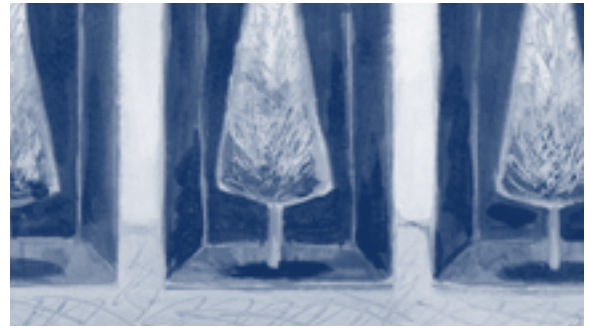


The 2005 BRAC Process: The Case to Save Maine's Bases

by Derek P. Langhauser



In this article, Derek Langhauser gives a post mortem of Maine's response to the Base Realignment and Closure (BRAC) Commission's announcement of imminent closures in Portsmouth-Kittery, Brunswick and Limestone. Although Maine did not "win back" the Brunswick facility, Maine rescued the facilities in Portsmouth-Kittery and Limestone, secured additional resources for the Bangor Air National Guard and Bangor Naval Reserve Center, and was granted an expansion of the Limestone accounting center. As Derek Langhauser conveys, Maine's response to the BRAC Commission's original announcement is testament to the extraordinary capacity of the people of this state to work together in times of crisis. 🐉

"Our best chance of saving Portsmouth, Brunswick and Limestone is to treat the Secretary's recommendations like a lawsuit, the Commission like a court, and to present our position like a legal case."

United States Senator
Olympia J. Snowe,
May 2005

INTRODUCTION

On May 13, 2005, Secretary of Defense Donald Rumsfeld announced his department's list of base closures and realignments. It was truly Friday the 13th for Maine: the secretary's major recommendations proposed closing Portsmouth Naval Shipyard and the Limestone Defense Finance and Accounting Service (DFAS), and substantially reducing Brunswick Naval Air Station (NAS). Maine's job loss from these recommendations was the second largest in the nation, with at least 13,800 direct and indirect jobs slated to be lost. Maine's congressional delegation and governor (hereinafter collectively referred to as "Maine") had only weeks to prepare for site visits, and less than two months to prepare for its four-hour formal hearing before the Defense Base Realignment and Closure (BRAC) Commission.

By late August, the commission had reached its decisions on these and all of the secretary's other recommendations around the country. The commission approved 86% of the secretary's recommendations, a higher percentage than any of the four preceding BRAC Commissions. And, while the commission recommended closing the Brunswick NAS, the state had saved the Portsmouth shipyard, saved the Limestone DFAS, won expansion of the Limestone center, won two additional planes and their crews for the Bangor Air National Guard, and secured several jobs for the Bangor Naval Reserve Center.¹

This article presents an account of the three months in 2005—from early May to late August—during which Maine prepared and presented these cases, focusing on the background, issues, determining factors, and lessons of this BRAC round.

THE BRAC PROCESS

After years of unsuccessful efforts to close military bases and to shift assets to new and emerging threats, Congress in 1988 created by statute the base realignment and closure process, commonly known as "BRAC." Under this process, the Defense Department inventories all of its domestic military assets and identifies those that it believes no longer have the highest military value. The department then recommends to an independent commission closing or realigning (e.g., typically reducing but sometimes expanding) such facilities.²

That commission, consisting in this round of nine former generals, admirals, and government officials appointed by the president, reviews the department's recommendations.³ The commission can accept, reject, or modify the secretary's recommendations, but it can only reject or modify a recommendation if the commission finds that the secretary "substantially deviated" from the Department's "Force Structure Plan"—a broad national defense planning document—and at least one of eight specific statutory criteria.

The first four criteria, which are expressly given priority by the BRAC statute, relate to these "military values": (1) mission capabilities and the impact on operational readiness of the total force; (2) availability and condition of land, facilities and associated airspace, including staging areas for the use in homeland defense missions; (3) ability to accommodate contingency, mobilization, surge and future total force requirements; and (4) cost of operations and the manpower implications. The last four criteria—which are given *less* priority by the statute—speak to these administrative and community values: (5) extent and timing of potential costs and savings; (6) economic impact on existing communities; (7) ability of the infrastructure of both

Maine's congressional delegation and governor... [had] less than two months to prepare for its four-hour formal hearing before the Defense Base Realignment and Closure (BRAC) Commission.

the existing and potential receiving communities to support forces, missions and personnel; and (8) environmental impact, including the impact of costs related to environmental restoration and compliance.⁴

After the secretary issues his recommendations, the BRAC Commission tours each affected facility, hears from each affected state at a regional hearing, hears from the Defense Department, and then makes its own recommendations as to which facilities have the highest military and related values under these eight criteria. The commission sends these revised recommendations to the president and Congress who must each accept or reject the commission's list in its entirety. If both fail to reject the list, the recommendations on the list take effect, and facilities have up to six years to implement their closures or realignments. Commissions on average have accepted 84% of the secretary's recommendations, and no president or Congress has ever rejected a commission's list of recommendations.

The challenge of defending three very different facilities—a shipyard, an air station and an accounting center—would require excellent organization.

PRIOR BRAC ROUNDS

The 2005 round of base closures was the fifth of its kind, with prior rounds occurring in 1988, 1991, 1993, and 1995. In those four rounds, commissions closed 97 and realigned 55 major bases, and closed or realigned 235 additional facilities. Officials estimate that approximately \$29 billion have been saved from these rounds.⁵

The 2005 round, however, was far more complex and far-reaching than these previous rounds. After developing an estimated 25 million data points and running 1,000 different scenarios, the Defense Department presented 190 separate recommendations involving as many as 837 distinct closures or realignments at 160 different installations. These recom-

mendations consisted of closing 33 and realigning 29 major bases and making 775 other changes. The department expected to achieve long-term savings of nearly \$48 billion from implementation of these recommendations.

Given this enormous dollar value and the more than 800 “moving parts” as the commission chair called them, the 2005 round was the largest, most complex, and most aggressive base closure round in American history. Indeed, as the commission would later note, “Secretary Rumsfeld was very clear that his primary goal for the [2005] BRAC process was military transformation.”

DEFINING MAINE'S STRATEGY

Maine's strategy for fighting these closures was based on the legal and historical background just described.

Organization. The challenge of defending three very different facilities—a shipyard, an air station and an accounting center—would require excellent organization. Maine's congressional delegation of Senators Snowe and Susan Collins and Representatives Tom Allen and Michael Michaud came together quickly to assign tasks. They also worked closely with Governor John Baldacci, who funded expert consultants. For the Portsmouth shipyard, the delegation also coordinated closely with New Hampshire's four congressmen and governor.

Planning window. Unlike prior rounds that required the department to plan just six years out, the 2005 BRAC statute imposed a 20-year planning window. This placed a greater burden on the Defense Department to justify the long-term implications of its recommendations. For example, could the department really show what the Navy's submarine repair needs would be 20 years from now?

Excess vs surge capacity. Previous BRAC statutes focused almost exclusively on whether the department had too much “excess capacity.” The 2005 statute, however, required the additional consideration of “surge capacity.” Surge capacity is the reverse concept of too much excess capacity; it speaks to whether there is enough excess capacity to meet foreseeable, even if arguably remote, emergency needs. For example, if

the Portsmouth shipyard were closed, would there be enough excess capacity among the Navy's nuclear ship repair yards to accommodate the inevitable crisis?

Military value. By expressly prioritizing the four military value criteria, the statute required faithful, if not begrudging, respect for the fact that community or state economic impact would not be a priority for the commission. For the same reason, saving money, while certainly an important consideration, would also not be a decisive factor for either the department or the commission if there were not a corresponding military value to such savings.

Force Structure Plan. The Defense Department's "Force Structure Plan," although primarily a broad conceptual planning document, raised some questions about how many submarines the Navy expected to have 20 years out. For example, the plan suggested that the Navy would go from approximately 55 submarines in 2005 to approximately 45 submarines in 2025. But what was the source of and rationale for this relatively dramatic reduction, and did it erroneously assume congressional support for such a reduction? Furthermore how did they square with the Chief of Naval Operations' seemingly inconsistent testimony to the BRAC Commission on May 17, 2005, indicating that Navy was moving to a force level of 41, not 45, submarines?

History of other commissions. Prior commissions dealt with both naval air stations and shipyards, so knowledge of their analyses and fate would be instructional. For example, the closure and/or realignment of naval air stations like Brunswick were among the commissions' most common acts. For shipyards, however, the record was more mixed.

For example, the 1991 commission closed the Philadelphia Naval Shipyard, and the 1993 commission closed shipyards in South Carolina and Mare Island, California. The 1993 commission, which spoke declaratively of the need to eliminate "considerable" excess yard capacity, also considered on its own initiative closing shipyards in both Portsmouth and Long Beach, California. At that time, the Navy argued *against* closing Portsmouth, and the commission never added either to the list of recommendations sent to the president. Similarly, the 1995 commission closed the shipyard in Long Beach and a ship repair facility in Guam

and, as its predecessor did in 1993, the commission on its own initiative officially considered closing the Portsmouth shipyard. Again, however, the Navy argued against closing Portsmouth facility, and the 1995 commission never added Portsmouth to its recommendations to the president. In addition, the 1995 commission did not define the excess yard capacity by 1995 to be "considerable."

Knowledge of this history showed that naval air stations like Brunswick often lost in BRAC rounds, and that shipyards like Portsmouth lived or died—and mostly died—on the issue of excess capacity. However, it also showed that excess shipyard capacity had been significantly drawn down by the acts of the 1993 and 1995 commissions, especially with the closure of the shipyard in Charleston, South Carolina, which, like the one in Portsmouth, was a nuclear facility. Furthermore, because the Portsmouth shipyard appeared on both the 1993 and 1995 potential closure list, Maine knew that Portsmouth was both vulnerable *and* capable of weathering a challenge.

Importance of the commission. The structure and history of the BRAC process showed that if Maine were going to win, it had to be at the commission level. Although it is theoretically possible to reverse a commission recommendation by appealing first to the president and then to Congress, this had never successfully occurred in any of the prior rounds. Indeed, such appeals are counter to the very reason that a president and Congress created such commissions, i.e., to permit progressive change in national defense without obstruction by more narrow parochial interests.

Likewise, going to court would hold little promise, since both the Supreme Court of the United States and several lower courts had effectively foreclosed judicial review of the substantive BRAC decisions by defense secretaries, BRAC Commissions, and presidents.⁶ For example, these courts, including the Maine federal district court in a challenge to the closure of Loring Air Force Base in 1991, consistently rejected some 20 different constitutional and statutory claims against the BRAC process. Specifically, the courts have held that the process is a permissible, delegated, administrative power because the BRAC statute contains specific substantive standards (i.e., the eight listed criteria) and clear procedural safeguards (i.e., the mechanisms for

presidential and congressional disapproval). Similarly, the courts have held that, by enacting a statute that has a commission provide technical review of the secretary and the president and Congress provide political review of the commission, Congress did not intend to provide substantive judicial review of the process. Instead, questions of “military judgment” are better left, the courts have said, to the more expert policy decisions of the executive and legislative branches.

Factual defense. The BRAC statute required Maine to show not just that the secretary of defense committed a technical error in arriving at his recommendations, but that he “substantially deviated” from at least one of the eight statutory criteria cited above. To meet this high standard, Maine’s attack would first have to be factual. And the strongest facts would be those that were “certified” (for reliability) by the Defense Department, and related to at least one of the four military value criteria. Such fact-based analysis would require significant input from the local groups at each of the three installations. Once these facts were in hand, they could be marshaled into a weight analysis; the pertinent criterion to which such analysis applied could be identified, and such analyses could be used to argue “substantial deviation.” With history demonstrating that commissions accept all but about 16% of the department’s recommendations, such factual discipline would be essential.

Justification for recommendation. A review of all four commission reports between 1988 and 1995 demonstrated that Maine’s case had to focus very specifically on the secretary’s stated justification for his recommendation. Prior commission reports showed that it was the secretary’s specific stated justification—and not some broader conceptual or other factual argument—that would be judged by the Commission.

So with each of these ideas in mind, Maine set about making its case for the facilities in Portsmouth, Brunswick, Limestone, and Bangor.

THE CASE FOR THE PORTSMOUTH NAVAL SHIPYARD

Portsmouth Naval Shipyard, which despite its name is located in Kittery, is one of four public nuclear shipyards run by the Navy. Its basic job is to repair nuclear submarines. The secretary recommended closing

the Portsmouth yard and moving its various repair and planning functions to Norfolk, Virginia, and Puget Sound, Washington. This recommendation projected saving \$1.3 billion and causing 9,166 direct and indirect job losses. Because of the size of these impacts, this recommendation was one of the most closely watched and hotly contested in the entire 2005 BRAC round.

The secretary justified his recommendation to close the Portsmouth shipyard by arguing that there was enough aggregate excess capacity across their four shipyards to warrant closing the facilities in either Pearl Harbor or Portsmouth. The secretary argued there was insufficient excess capacity to close any other shipyard or combination of shipyards, and that Portsmouth was selected rather than Pearl Harbor because closing the Portsmouth shipyard would eliminate excess capacity while retaining a shipyard with an operational homeport in the Pacific. The Portsmouth shipyard, situated on the Atlantic without an operational homeport, was thereby deemed to be less desirable than the yard in Pearl Harbor.

In response to this justification for closure, Maine made three primary arguments. As a threshold matter, Maine argued that underlying the plan to reduce submarine repair capacity was the department’s apparent, though not expressly clear, long-term plan to reduce the size of the Navy’s submarine fleet from 55 to 45 (or perhaps 41) boats. Maine, seizing on the uncertainty of the statute’s 20-year window, challenged the quality of this presumption.⁷ For example, Maine pointed to the increasing submariner threat posed by China as evidence of the Navy’s misjudgment in planning for this level of reduction.

Second, Maine argued that Portsmouth’s highly skilled workforce has made the Portsmouth yard the Navy’s most productive shipyard and that their expertise would be irretrievably lost because they would likely not move to Virginia or Washington. For example, because of the shipyard’s efficiency, it had provided approximately 60 additional weeks of submarine operation time over the last five years by returning boats ahead of schedule. By contrast, 124 weeks of operation time had been lost due to the combined inefficiencies of the other shipyards. Furthermore, the then-current performance at the other shipyards was already resulting in an additional loss of 108 weeks

of operational time for 2006. Extrapolating from these figures, Maine argued that, over the next five years, the Navy would lose at least 184 weeks of submarine operation time—37 weeks per year—if the commission closed Portsmouth. Maine then argued that the Navy could ill afford to lose those 37 weeks because, as the commander of Naval submarine forces had testified to Congress that summer, “possibly the best Force level yardstick (for submarines) is the Combatant Commander deployment requests for daily submarine operations, which exceeds what we can provide with the current force, and [these] Commanders currently want 150 percent of the critical mission days that we can provide.”

Third, Maine challenged the Navy’s excess and surge capacity analyses. On this issue, the Navy had asserted that closing the Portsmouth shipyard would still leave excess capacity in the other three shipyards. Maine argued, however, that the Navy’s own data showed that the Navy *overestimated* the workload capacity of the three other yards, *underestimated* the workload efficiency of Portsmouth, and if the Portsmouth shipyard were closed, there would be little to no capacity for any “surge” at the remaining three yards.

This point was bolstered by the testimony to Congress by the director of naval reactors that “any further reductions in [submarine repair] capacity would push the limits of viability and eliminate the modest surge capacity we have today.” Further driving home this point was a retired admiral whom the secretary’s office prevented from testifying at Maine’s regional hearing. Although the admiral’s testimony had been previously cleared by one Navy office, the secretary’s office informed the admiral, just hours before the hearing, of potentially severe personal consequences for testifying. Maine, however, deduced that such consequences only attached to an appearance before the commission in an *official* session and not to an appearance before a less formal fact-finding session. Accordingly, Maine did not present the admiral’s testimony at the formal regional hearing, but his views were later made available to commission staff and members in an informal session.

In rendering its decision, the commission agreed with Maine on all of Maine’s major points. The

commission first agreed that looking out the 20-year window, there were concerns about how large the submarine fleet would or should be by 2025, and that these concerns were exacerbated by the “uncertainties of future threats” by countries like China. The commission also agreed with Maine that, while there was approximately 27% excess depot maintenance capacity across the four yards, this excess capacity fell to a mere 8% if Portsmouth shipyard closed. Finding that this percentage did not provide for adequate surge capability, the commission concluded that the secretary’s recommendation to close the Portsmouth yard substantially deviated from the surge capacity factor in criterion 3. The commission then voted, with just one dissenter, to keep the Portsmouth Naval Shipyard open.⁸

By rejecting the secretary’s recommendation on the Portsmouth Naval Shipyard—one of the most visible, contested, and valuable (i.e., \$1.3 billion) recommendations of this entire BRAC round—the commission showed its clear independence from the Defense Department. Maine had won the Portsmouth shipyard back, and it did so from the very grounds that it argued.

THE CASE FOR THE BRUNSWICK NAVAL AIR STATION

Brunswick Naval Air Station is also operated by the Navy. It provides maritime patrols of the North Atlantic and an intelligence, surveillance, and reconnaissance platform in support of the war on terrorism. The secretary recommended realigning Brunswick by moving its aircraft and personnel to Jacksonville,

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Florida. The Defense Department projected the loss of 4,266 direct and indirect jobs in Maine and the savings of \$239 million. The secretary's justifications for realigning the Brunswick NAS were cost savings and efficiency; the department did not argue that the realignment would enhance any other military value.

Maine did not wait until its regional hearing to make its case...[but] made its case much earlier at the site visits and in its frequent coordinated communications with commissioners and staff.

The department's deliberative documents showed that the decision to realign the Brunswick NAS was a compromise between those within the Navy who wanted to close it for full savings, and those within the U.S. Northern Command, Fleet Forces Command, and the department's Infrastructure Executive Council who wanted to retain it for its strategic location and future capability. When faced with the closure recommendation, Maine looked to these three expert groups and advanced *their* arguments: that the Brunswick NAS is the last active duty defense airfield in New England and one of only two (the other being McGuire Air Force Base in southern New Jersey) in the Northeast. Maine further argued that closure would eliminate a homeland defense staging and training area, and that closure would forgo a militarily strategic location near North Atlantic sea lanes and the closest point to Europe and the Middle East. In addition, Maine argued that Brunswick NAS had unique and modern facilities that could support the Navy's entire military aircraft inventory and that any actual cost savings would be far less than projected.

After the initial hearing where Maine raised all of these issues, the commission on its own initiative considered closing Brunswick to achieve even greater cost savings. The commission then accorded Maine a new hearing on that proposal and the Defense

Department, ironically enough, joined Maine's effort at this hearing to dissuade the commission from closing the Brunswick facility.

In the end, however, the commission again showed its independence, concluding that "closure would reduce excess capacity and result in significant savings while realignment would accomplish neither" (Defense Base Closure and Realignment Commission 2005: 102). The commission found that closure would yield \$798 million in savings; realignment would have produced only \$239 million. The commission also argued that even without Brunswick there were still suitable operating sites to support the department's mission support responsibilities elsewhere in New England. The commission also rejected Maine's homeland defense arguments, finding that the commission's other realignments addressed the homeland defense needs of New England. Here, the commission was primarily referring to its decision to keep open the Otis Air National Guard Base in Cape Cod, Massachusetts. Finally, the Commission reasoned that closure was better than realignment for the local community because realignment made it "virtually impossible for the community to successfully redevelop the site" (Defense Base Closure and Realignment Commission 2005: 102). With just one vote to spare, the commission rejected the views, not only of Maine, but also of the secretary of defense, U.S. Northern Command, Fleet Forces Command, and the Infrastructure Executive Council, and then voted to close Brunswick.⁹

THE CASE FOR LIMESTONE DEFENSE FINANCE AND ACCOUNTING SERVICE

The Defense Finance and Accounting Service, known as "DFAS," at Limestone provides accounting services to all branches of the military. Created to soften the regional economic blow from closure of Loring Air Force Base in 1994, the Limestone DFAS is one of 26 such accounting facilities around the country. The Defense Department recommended closing the Limestone facility and 22 others in order to collapse the entire system into just three centers. The department's goal on the Limestone DFAS was clear: to save money and streamline efficiency by

eliminating 391 direct and indirect jobs in Maine.

Maine advanced three primary arguments to save the Limestone facility. First, Maine argued that the data that the department used to determine the facility's "military value ranking" was based on a number of flawed assumptions that produced misleading and incorrect results. For example, the scoring discounted the capacity of the Limestone DFAS to expand its operations, to do so with an already secure environment (i.e., former military bases), and at relatively less expense. Second, Maine argued that Limestone DFAS has highly trained and motivated employees who have a proven track record of performing services at a cost substantially lower than the rate for other DFAS sites. And finally, contrary to prevailing wisdom cited above, Maine relied heavily on a non-military value argument regarding economic impact. But our reasoning was unique.

Unlike most other BRAC proposals, the recommendation to close the Limestone DFAS facility represented a *double* closure. When the 1991 BRAC round closed Loring Air Force Base, the ensuing 5,600 layoffs increased that region's unemployment by more than one-third. The Limestone DFAS had become the cornerstone of the economic recovery efforts, which the department was now taking away. Worse yet, the Defense Department's own data showed that the regional impact of the 2005 Limestone DFAS closure would be greater than in *any other* DFAS community in the nation. Simply put, hitting Aroostook County twice within 15 years with the heaviest of job losses was not only undue and unfair, it was breach of faith from the promise the department made in 1994.

Maine then went on the offensive to argue that the Limestone facility should not only stay open, but that it should be expanded as a low-cost "center of excellence." The Limestone facility's operating costs are one-half of those facilities in Columbus, Ohio, and Indianapolis, Indiana, and well under one-third of those in Denver, Colorado—the three sites slated to absorb Limestone's work. Again, Maine used the department's own financial data to prove that point.

Showing both an impressive attention to detail and a somewhat surprising level of compassion, the commission agreed. It found that there were discrepancies in the DFAS sites' military value scores, and that

the Limestone DFAS's location on a former base gave it both space and flexibility for the future. The real key, however, was the commission's finding that the department did not adequately consider the economic impact of its recommendation. For accounting facilities in both Limestone and Rome, New York, which had also suffered previous BRAC cuts, the commission found that by retaining these two sites, the department could both preserve operational capacity and strategic redundancy, *as well as* eliminate an undue and unfair economic impact. Concluding that the secretary deviated substantially from final selection criteria 3, 4, and 6, the commission, again asserting its independence, voted *unanimously* to keep the DFAS in Limestone and Rome open, each with expansion.

THE CASES FOR BANGOR NAVAL RESERVE CENTER AND AIR NATIONAL GUARD

The secretary also made two smaller recommendations with the potential to benefit the state, both of which were in the Bangor region. First, the secretary recommended moving seven positions from the Bangor Naval Reserve Center to Brunswick Naval Air Station. Although these positions could have then been eliminated by force of the recommendation to close the Brunswick NAS, Maine was able to get the commission to bring these positions back to Bangor. Second, the secretary recommended adding two KC-135 airplanes and their crews to the Bangor Air National Guard. This recommendation came under attack, however, by other states that were losing such assets and their related legal challenges that National Guard assets were not within the jurisdiction of the BRAC Commission. In the end, these legal challenges fell away and the commission made several adjustments to the secretary's overall allocation of National Guard assets. Nonetheless, Maine's effort to obtain the two additional planes and their crews was affirmed by the commission.

LESSONS LEARNED

Looking back, several decisions stand out as essential to Maine's success in the 2005 BRAC round. First, Maine did not wait until its regional hearing to make its case. Maine made its case much earlier at the site

visits and in its frequent coordinated communications with commissioners and staff. Maine also continued to present its case even after the regional hearing passed. Here, Maine took advantage of the commissioners' willingness to meet with local community groups during site visits even though they were not statutorily required to do so. In this way, the commissioners received information beyond the standard "party line" that the Defense Department required base commanders to present. Indeed, it was in these meetings that the commission first heard expert analyses on shipyard capacity, expert rebuttal of the economic justification for the realignment of the Brunswick NAS, and the pitch by DFAS to both preserve and expand its operation. Such face-to-face meetings will prove crucial in future rounds of base closures.

...the 2005 BRAC Commission accepted 86% of the secretary's recommendations.... Maine, for its part, won four of the five total cases, and two of the three major cases that it fought.

Second, Maine did not limit its contacts to just commissioners. Maine understood very early on how the BRAC Commission itself worked. BRAC staff would first sort through the voluminous data and then make recommendations to the commissioners. Getting BRAC *staff* to hear and accept Maine's arguments early was crucial. A good example of this was the unclassified and/or classified briefing that Maine suggested that commission staff receive regarding the emerging submariner threat posed by China in evaluating the Portsmouth shipyard and the long-term needs of the U.S. Navy's submarine support.

Third, Maine's persistent communications with the commissioners and their staff reinforced that they were truly independent from the Defense Department. They had their own fact-finding skills, their own substantive expertise, with every bit as much experi-

ence as those in the department to make the right—even if different—decisions.

Fourth, Maine turned quickly and consistently to the local sites for their expertise on the relevant facts. Local groups at each location got to work immediately and worked tirelessly to pull together the facts and data necessary to make a strong factual case. Such accurate and deep factual development was indispensable, especially in the case of the work by Earl Donnell, an expert in the maximum, excess, and surge workload capacities of both the Portsmouth and the other three public shipyards.

Fifth, where possible, Maine identified military experts to argue the military value of the Portsmouth and Brunswick facilities. Commissioners, of course, expect politicians and community groups to defend their constituent interests. So it was those who have both military expertise and no particular home-state bias who, like former Rear Admiral William Klemm in the case of Portsmouth, would stand out with the Commissioners.

Sixth, Maine's effort was internally cooperative and therefore very efficient. There was strong coordination among the congressional delegations and governors of both Maine and New Hampshire. In a time where political divisiveness and rancor often seem to dominate the political landscape, the level of cooperation and collaboration in this effort was impressive. Indeed, this effort was, in many respects, representative government at its best, with elected officials from local, state, and federal governments, the legislative and executive branches, and the states of Maine and New Hampshire all pulling in the same direction towards one common goal.

Finally, Maine stuck to hard facts—not political, rhetorical, or emotional appeals—to make its cases. This was perhaps the most commanding lesson that Senator Snowe, the only member of the 2005 Maine delegation who was a veteran of the 1991 Loring hearing, brought forward for the defense. And Maine's and New Hampshire's congressional delegations were also well served by skilled staff who had the military experience necessary to communicate effectively with the commission and to translate those communications effectively for the delegations and governors.

CONCLUSION

In the end, the 2005 BRAC Commission accepted 86% of the secretary's recommendations, saving by its own 20-year estimates some \$15 billion. Of the Defense Department's 190 recommendations, the commission approved 119 with no change and accepted another 45 with amendments. Of the 33 major closures that the secretary recommended, the commission approved 21, realigned seven, and rejected five. Of the 29 major realignments that the secretary recommended, the commission approved 25. Maine, for its part, won four of the five total cases and two of the three major cases that it fought.

As projected, lawsuits in or by eight states were all unsuccessful in their attempt to overcome the commission's recommendations to the president. And as further expected, the president accepted the list without change, and Congress did not exercise its authority to disapprove the list. Consequently, on November 9, 2005, the commission's recommendations took effect.

Clearly, the loss of the Brunswick NAS was disappointing, and many good people worked very hard to save it. But, in retrospect, it appears that the Brunswick facility was lost where a political delegation could not win it: by the commission overruling the recommendations of the U.S. Northern Command, Fleet Forces Command, and the department's Infrastructure Executive Council to keep Brunswick open. For its part, Limestone DFAS was won on its excellent track record of efficiency and service, and on the unique and powerful "double closure" argument. And the Portsmouth Naval Shipyard was won by taking the Navy's capacity analysis head on. But that argument, it is appropriate to note in closing, was made possible only by the extraordinary performance record of the Portsmouth's highly skilled and dedicated employees. As Senator Snowe told these workers after the Commission announced its final vote:

Two months ago, members of the BRAC Commission traveled to these gates and you met them by the thousands. And you had but a simple message for them. You said, "Save Our Shipyard." That's right; you asked them to save your shipyard. Well, now that the verdict is in, let me tell you what I think.

I think it is you who saved this shipyard. It was your skill; your dedication; your excellence; and your efficiency that saved this shipyard. It was your productivity; your consistency; your labor-management relations; and your safety record that saved this shipyard. It was your leadership; your innovation; and your preeminence.

It was, in a word, you—every one of you—who saved this shipyard. This win is yours; you earned it and you deserve it. And it has been my highest privilege to represent you and to help to tell your commanding story.

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ENDNOTES

1. For a copy of the commission's 800-page final report to the president, see <http://www.brac.gov/docs/final/VolumeI%20BRACReport.pdf>
2. For a complete copy of the department's 400-page recommendations, see http://www.defenselink.mil/brac/pdf/Vol_I_Part_2_DOD_BRAC.pdf
3. For the biographies of these Commissioners, see <http://www.brac.gov/commissioners.asp>
4. For a verbatim copy of these eight criteria, see http://www.brac.gov/docs/criteria_final_jan4_05.pdf For a complete copy of the 40-page 2005 BRAC statute, see <http://www.brac.gov/docs/BRAC05Legislation.pdf>

5. For documents relating to these prior BRAC rounds, see <http://www.defenselink.mil/brac/priorbracs.html>
6. See, for example, *Dalton v. Specter*, 511 U.S. 462 (1994); *National Federation of Federal Employees v. U.S.*, 905 F.2d 400 (D.C. Cir. 1990) affirming 727 F.Supp. 17 (D.C. D.C. 1989); *Illinois v. Cheney*, 726 F.Supp. 219 (C.D. Ill. 1989); *Cohen v. Rice*, 800 F.Supp. 999 (D.C. Me. 1992) (unsuccessful challenge to closure of Loring).
7. The quotes used in this discussion of the case for the Portsmouth Naval Shipyard are taken from the testimony presented at the Maine's regional hearing. For a complete copy of the Maine delegation's testimony on Portsmouth, Brunswick, and Limestone at the regional hearing on July 6, 2005, and for a copy of the delegation's re-hearing testimony on Brunswick on August 10, 2005, see <http://www.brac.gov/hearingInfo.asp>.
8. Commissioner Philip Coyle spoke to this issue with this memorable remark: "All human activity must involve some amount of excess capacity. I don't use my garage 24 hours a day, but I'm not about to tear it down."
9. The BRAC statute provided for two different vote counts for the commission. For example, the Portsmouth and Limestone items required a five-vote majority because the motion was on the secretary's recommendation. By contrast, the Brunswick vote required a seven-vote majority because the motion was on the commission's recommendation.

REFERENCES

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