

COMMONWEALTH OF VIRGINIA
Office of the Governor

Timothy M. Kaine
Governor

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**COMMONWEALTH OF VIRGINIA AND CITY OF VIRGINIA
BEACH FILE TWO LAWSUITS CHALLENGING BRAC ORDER**

~ Lawsuits focus on legality of BRAC order and Inspector General's ruling ~

WASHINGTON D.C. – Virginia Governor Timothy M. Kaine, Virginia Attorney General Bob McDonnell, and City of Virginia Beach Mayor Meyera E. Oberndorf today announced the filing of two federal lawsuits challenging the legality of the 2005 Base Realignment and Closure (BRAC) order regarding the U.S. Navy's East Coast Master Jet Base at Naval Air Station Oceana in Virginia Beach, Virginia. The two lawsuits were filed late Tuesday afternoon in the U.S. District Court for the District of Columbia, so as not to interfere with a referendum related to the issue that appeared on the ballot Tuesday in Jacksonville, Florida.

“The Commonwealth and the City of Virginia Beach remain committed to ensuring that the Master Jet Base remains at Oceana, as indicated by our compliance with the BRAC order,” Governor Kaine said. “These lawsuits are the next step towards doing what is best for Virginia Beach, the Commonwealth, and the Nation, by securing the Base at Oceana.”

The first lawsuit, *Commonwealth of Virginia v. Rumsfeld**, challenges the legality of the BRAC order adopted by the President that calls for the Master Jet Base to be moved from Virginia to the former Cecil Field in Jacksonville, and asks that this order be permanently enjoined. The suit argues that neither the BRAC Commission nor the President has the authority under the BRAC Act of 1990 to move a military function to a location that is not an existing military installation.

“It is abundantly clear that Congress never contemplated an eleventh-hour BRAC action that, in effect, would invite a bidding war between two states over the location of a valued and vibrant military facility, and the BRAC panel clearly overstepped its mandate,” Governor Kaine remarked.

The second lawsuit, Commonwealth of Virginia v. Gimble**, challenges a ruling by the Department of Defense Inspector General regarding the conditions that must be satisfied to move the Master Jet Base from NAS Oceana to Cecil Field. The BRAC order specifically was not to take effect unless the Virginia jurisdictions “fail(ed) to enact and enforce legislation to prevent *further encroachment* of Naval Air Station Oceana by the end of March 2006.” The suit maintains that the Commonwealth, the City of Virginia Beach, and the City of Chesapeake have taken steps that satisfy, and even exceed, this requirement.

Attorney General Bob McDonnell noted, "We believe that the Inspector General's decision finding Virginia Beach not compliant with the BRAC order was legally incorrect. Virginia Beach complied with the law and should have been certified. We are taking this legal action to ensure that the East Coast Master Jet Base remains at its historic home at Naval Air Station Oceana. That is the right legal decision, and it is right for the Navy and America's security."

Mayor Oberndorf added, "Since the beginning of the BRAC process, the state and the city have taken all necessary steps to retain the Master Jet Base at Oceana. The filing of these lawsuits does nothing to alter that commitment. We've appropriated \$15 million in the current fiscal year to acquire property, adopted zoning ordinances requiring consistency with Navy guidelines, begun the process of acquiring properties incompatible with flight operations, and established a program of incentives for property owners to voluntarily convert incompatible land uses to compatible ones."

The Commonwealth of Virginia, along with the affected local jurisdictions, continues to move forward with all compliance plans to retain the East Coast Master Jet Base at Naval Air Station Oceana. Copies of both lawsuits in their entirety can be found at the following links:

Commonwealth of Virginia v. Rumsfeld:

http://www.vaag.com/legal_legis/courtfilings/rumsfeldcomplaintstamped.pdf

Commonwealth of Virginia v. Gimble:

http://www.vaag.com/legal_legis/courtfilings/gimblecomplaintstamped.pdf

** Donald Rumsfeld is listed in his official capacity as the Secretary of the United States Department of Defense*

*** Thomas Gimble is listed in his official capacity as Acting Inspector General, United States Department of Defense*

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