

**Congress of the United States**  
**Washington, DC 20510**

June 23, 2011

The Honorable Robert. M. Gates  
Secretary of Defense  
1000 Defense Pentagon  
Washington, DC 20301

Dear Secretary Gates:

Your Office of General Counsel (OGC) recently revealed that it has determined that the Umatilla Chemical Depot (UMCD) will be closed outside of the BRAC process. This decision is not only wasteful and counterproductive, but is also counter to the letter and spirit of the BRAC statute.

Umatilla, Oregon, has been home to some of the Army's most dangerous weapons since 1962 when UMCD assumed the chemical weapon stockpile mission. Once it became clear, in 1990, that the chemical weapons at UMCD were going to be destroyed, the Governor of Oregon organized a regional task force to begin planning for the eventual closure of the facility. Four years later, a Local Reuse Authority (LRA), made of representatives from all the local stakeholders, was formed to create a formal plan for the eventual closure of UMCD.

In 2005, the closure of UMCD was included in the BRAC Commission's recommendations that eventually became law. This was done with the full support of the community. Many Oregonians, including ourselves, supported the BRAC Commission's recommendation to include UMCD on the closure list so that the workers and community could get the financial assistance BRAC provides. In 2009, the Umatilla LRA was officially recognized by the Department of Defense.

Over the last 20 years, these task forces and LRAs have worked to plan for the day when one of the region's largest employers shuts its doors, and the Army frees up nearly 20,000 acres. With more than \$1 million in federal funds, the LRA has developed a plan for the future of the site that can be accepted by all the regional stakeholders – not an easy task.

Unfortunately, we recently discovered that the OGC has decided that because the destruction of the chemical weapons at UMCD won't be complete by September 15, the facility will be closed and disposed of outside of BRAC, and without input from the LRA. Representatives from your office have informed our staff that the land may in fact be retained by the federal government and leased to the Army National Guard or another government entity.

The OGC argues that the BRAC Commission recommendation for UMCD is conditional on the completion of the chemical demilitarization mission before the six-year statutory period for completion of BRAC actions. However, a reading of the Commission's report finds that the opposite is true. On page 239, the Commission found that Secretary Rumsfeld's assertion that the chemical demilitarization mission at UMCD would be complete by the 2<sup>nd</sup> quarter of 2011 was optimistic. The Commission wrote, "An examination of status information for the depot's

mission completion and subsequent closure revealed that dates may slip beyond the six-year statutory period for completion of BRAC actions.” Therefore, the Commission took the Secretary of Defense’s recommendation “Close Umatilla Chemical Depot, OR” and changed it to “On completion of the chemical demilitarization mission in accordance with treaty obligations, close Umatilla Chemical Depot, OR.” These facts make it clear that the Commission did not make a conditional recommendation that the facility only be closed if the chemical demilitarization mission is completed by September of 2011. Rather, the Commission acknowledged that the closure will have to happen when the demilitarization mission is completed, even if that is after September 2011.

It is also important to note that the Commission was aware that the demilitarization mission had a deadline of its own. Under the terms of the Chemical Weapons Convention treaty, Umatilla must complete the mission by April 29, 2012. UMCD will be meeting this deadline, if not beating it. The Commission was not giving authority for the mission at UMCD to be never-ending. They were simply giving UMCD the additional eight months provided under the Chemical Weapons Convention.

The OGC also states that the Commission’s meaning is irrelevant, because the BRAC statute that created the Commission limits BRAC actions to six years. However, this is also erroneous. The BRAC Commissions recommendations, which became law after the 2005 BRAC statute, supersede any previous law. To argue the opposite as your General Counsel does, that older law supersedes more recent law, is simply incorrect.


As you know, Congress created BRAC as a way to consolidate and realign military facilities – saving taxpayer dollars. To try to use the BRAC statute to keep UMCD in federal hands and waste more than \$1 million is shameful.

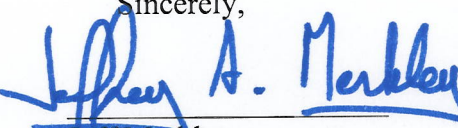
We hope that you will review the OGC’s decision, and, finding that it was based on several false assertions, overrule it and allow the closure of UMCD to continue under BRAC.

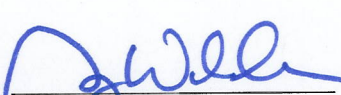
In addition, we will be seeking a legislative change to eliminate any doubt of your authority to continue the closure of UMCD under BRAC after September 2011.

Thank you for your attention to this matter.

Sincerely,

  
Ron Wyden  
United States Senator

  
Jeff Merkley  
United States Senator

  
Greg Walden  
Member of Congress

CC: The Honorable Leon Panetta, Office of the Secretary of Defense  
The Honorable John McHugh, Secretary of the Army