



**DEPARTMENT OF THE NAVY**  
NAVAL INSPECTOR GENERAL  
1254 9TH STREET SE  
WASHINGTON NAVY YARD DC 20374-5006

IN REPLY REFER TO:  
5720/11-060  
Ser OOK1/0219  
23 Mar 11

Mr. John Hammerstrom  
P. O. Box 860  
Tavernier, FL 33070

Dear Mr. Hammerstrom:

This responds to your Freedom of Information Act (FOIA) request of July 29, 2011, which we received via the Naval Criminal Investigative Service letter dated February 17, 2011.

Your request has been processed in accordance with the FOIA and the Privacy Act (PA). Enclosed is a redacted copy of the responsive material. Potential fees associated with this response have been waived.

The redactions made in the documents are based on the FOIA Exemptions (b)(5) and (b)(7)(c), as well as PA Exemption (k)(2). FOIA Exemption (b)(5) protects from disclosure documents and other memoranda prepared by an attorney in contemplation of litigation. The other two exemptions authorize the Government to withhold names and other personal information concerning individuals mentioned in records compiled for investigatory or law enforcement purposes, which, if released, could be considered an unwarranted invasion of the privacy of third parties.

Because your request has been denied, you are advised of your right to appeal this determination in writing to:

Department of the Navy  
Office of the General Counsel  
ATTN: FOIA Appeals - Room 4E635  
1000 Navy Pentagon  
Washington, DC 20350-1000

Your appeal must be received within sixty working days from the date of this letter. A copy of your initial request and this partial denial letter must accompany the appeal. The appeal should be marked "FREEDOM OF INFORMATION ACT APPEAL" both on the

5720/11-060  
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23 Mar 11

envelope and in the letter. In order to expedite the appellate process and ensure full consideration of your appeal, your appeal should contain a brief statement of the reasons you believe this initial decision is in error.

The official responsible for the denial of your request is Mark A. O'Brien. Potential fees associated with this response have been waived.

If you have any questions concerning this matter, my assistant, Ms. Pat Chase-Ramsey, telephone (202) 433-2222, is familiar with your request and will be of assistance.

Sincerely,



Mark A. O'Brien  
Assistant Counsel

Enclosures: (1) Copy of this Letter  
(2) Redacted Copy of Documents from NAVINSGEN  
Case 20100230



**DEPARTMENT OF THE NAVY**  
NAVAL INSPECTOR GENERAL  
1254 9TH STREET SE  
WASHINGTON NAVY YARD DC 20374-5006

IN REPLY REFER TO:  
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Sincerely,



Mark A. O'Brien  
Assistant Counsel

Enclosures: (1) Copy of this Letter  
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Case 20100230



DEPARTMENT OF THE NAVY  
NAVAL INSPECTOR GENERAL  
1254 9TH STREET SE BUILDING 172  
WASHINGTON NAVY YARD DC 20374-5006

IN REPLY REFER TO:

5041/20100230  
Ser N61/0582  
23 Jun 10

From: Naval Inspector General  
To: Inspector General, Department of Defense, Assistant  
Director, Defense Hotline  
Subj: DOD HOTLINE COMPLAINT 113851 (201000230); COMPLETION  
REPORT

Ref: (a) DoD Directive 7050.01  
(b) DoD Action Case Referral 113851 of 1 Feb 10  
(c) DoD Action Case Referral 105900 of 6 May 08  
(d) NAVINSGEN ltr 5041/200800680 Ser N68/1083 of 15 Sep 08  
(e) NAVINSGEN ltr 5041/200800680 Ser N68/0110 of 6 Feb 09  
(f) PHONCON btwn [REDACTED] /  
[REDACTED] of 2 Jun 10

1. Per reference (a), we reviewed reference (b), which forwarded the subject hotline complaint that continues to pursue allegations identified in reference (c). Specifically, the complainant, CDR John G. Hammerstrom, USN (Retired), alleged that Department of the Navy (DON) personnel altered an April 2003 Environmental Assessment Study for Fleet Support and Infrastructure Improvements at Naval Air Station Key West (Florida) to give the appearance of compliance with the National Environmental Policy Act (NEPA); and that DON failed to follow NEPA procedures in assessing the environmental impacts associated with the introduction of the F/A-18 E/F Super Hornet aircraft to Naval Air Station Key West. References (d) and (e) responded to reference (c) and concluded that no evidence existed to suggest alteration of the EA Study as alleged; and that no further investigative action was warranted.

2. Our review of reference (b) determined that the complainant reiterates the allegations forwarded by reference (c) and that he fails to provide additional information that would cause this office to reconsider our previous decision not to investigate the allegations. Of note, the complainant concedes that the document was not physically altered. The complainant's allegations are based upon opinion and are not factual.

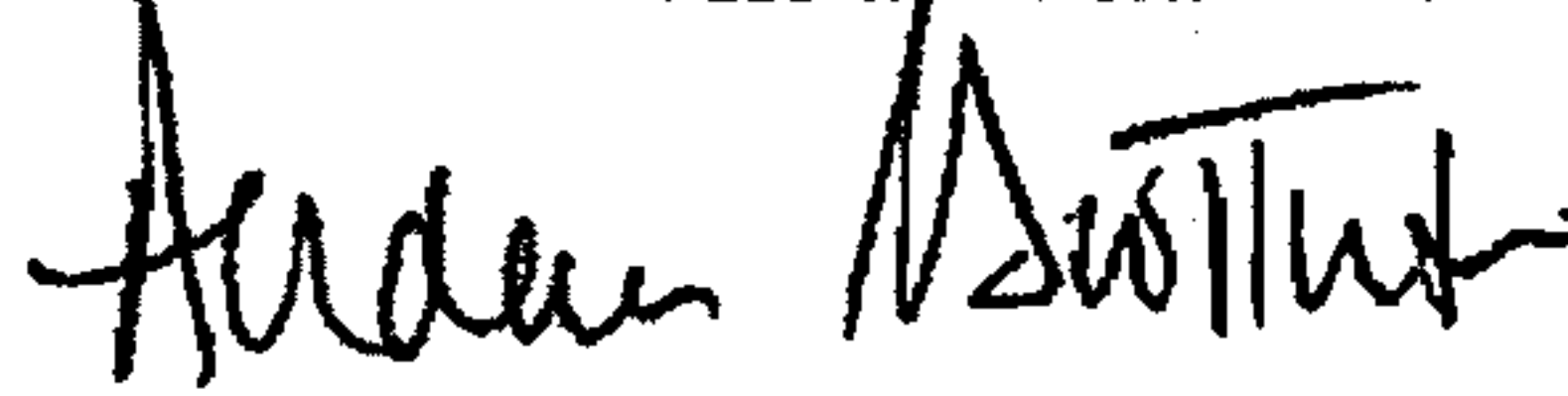
3. Reference (f) confirmed that numerous entities within the DON have addressed this issue, to include the Assistant Secretary of the Navy (Installations and Environment). Responses from all levels indicated that the DON satisfied the NEPA and that no evidence exists to suggest alteration of the final Environmental Assessment Study.

~~FOR OFFICIAL USE ONLY~~

~~Misuse or Unauthorized Disclosure May Result in Both Civil and Criminal Penalties~~

Subj: DOD HOTLINE COMPLAINT 113851 (201000230); COMPLETION  
REPORT

4. Based upon the aforementioned, we have concluded that a full investigation into this complaint is unwarranted.
5. The Naval Inspector General considers this case closed.



ANDREA BROTHERTON  
Deputy

Copy to:  
CNIC (N00G)

(b) (7) (C)

**From:** (b) (7) (C)  
**Sent:** Wednesday, April 14, 2010 7:32 AM  
**To:** (b) (7) (C)  
**Subject:** Re: Potential Litigation at NAS Key West - Document Retention

Thank you.

-----  
Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)

----- Original Message -----

**From:** (b) (7) (C)  
**To:** (b) (7) (C)  
**Sent:** Wed Apr 14 07:22:22 2010  
**Subject:** RE: Potential Litigation at NAS Key West - Document Retention

(b) (7) (C). We'll have it wrapped up tomorrow. (b) (7) (C)

-----Original Message-----

**From:** (b) (7) (C)  
**Sent:** Tuesday, April 13, 2010 2:07 PM  
**To:** (b) (7) (C)  
**Cc:** (b) (7) (C)  
**Subject:** FW: Potential Litigation at NAS Key West - Document Retention

MC: Please let me know where we are on this tasking? thanks

-----Original Message-----

**From:** (b) (7) (C)  
**Sent:** Wednesday, March 17, 2010 9:42 AM  
**To:** (b) (7) (C)  
**Subject:** FW: Potential Litigation at NAS Key West - Document Retention

(b) (7) (C): Please "coach" (b) (7) (C) about what needs to be done to accomplish the task described below from (b) (7) (C). thanks

-----Original Message-----

**From:** (b) (7) (C)  
**Sent:** Wednesday, March 17, 2010 9:11 AM  
**To:** (b) (7) (C)  
**Subject:** FW: Potential Litigation at NAS Key West - Document Retention

(b) (7) (C) - Good morning and welcome back from spring training. I've been designated as the OIG POC for this litigation.

Please identify any paper and electronic documents (including e-mail) related to the two cases identified in (b) (7) (C) below email on NAS Key West and retain them. I'll review the results to determine what can be released to the Navy.

Thanks very much.

Regards,

(b) (7) (C)  
[Redacted signature block]

CAUTION: This e-mail may contain information protected by the attorney-client, attorney work product, deliberative process, or other legal privileges. Do not disseminate without

the approval of the Office of General Counsel, Office of the Inspector General, Department of Defense.

----- Original Message -----

From: (b) (7) (C) [redacted]  
To: (b) (7) (C) [redacted]  
Cc: (b) (7) (C) [redacted]  
Sent: Thu Mar 11 16:41:53 2010  
Subject: Re: Potential Litigation at NAS Key West - Document Retention

Check in with (b) (7) (C) [redacted] at (b) (7) (C) [redacted] and he will assist you.

----- Original Message -----

From: (b) (7) (C) [redacted]  
To: (b) (7) (C) [redacted]  
Cc: (b) (7) (C) [redacted]  
Sent: Thu Mar 11 16:39:01 2010  
Subject: RE: Potential Litigation at NAS Key West - Document Retention

(b) (7) (C) [redacted],

If you will provide me your phone number, please, (b) (7) (C) [redacted] and I will call you at your convenience.

Thanks.

-----Original Message-----

From: (b) (7) (C) [redacted]  
Sent: Thursday, March 11, 2010 4:08 PM  
To: (b) (7) (C) [redacted]  
Cc: (b) (7) (C) [redacted]  
Subject: Re: Potential Litigation at NAS Key West - Document Retention

You should contact my office and we will respond to your request with assistance from the Defense Hotline.

(b) (7) (C) [redacted]

----- Original Message -----

From: (b) (7) (C) [redacted]  
To: (b) (7) (C) [redacted]  
Cc: (b) (7) (C) [redacted]  
Sent: Thu Mar 11 16:05:00 2010  
Subject: RE: Potential Litigation at NAS Key West - Document Retention

ATTORNEY WORK PRODUCT

(b) (7) (C) [redacted],

To follow up on your e-mail below, can (b) (7) (C) [redacted] and I contact you directly about this, or should we go through Navy IG or through (b) (7) (C) [redacted]?

Thanks.

-----Original Message-----

From: (b) (7) (C) [redacted]  
Sent: Thursday, March 04, 2010 6:02 PM



To: (b) (7) (C) [REDACTED]  
Cc: (b) (7) (C) [REDACTED]  
Subject: Re: Potential Litigation at NAS Key West - Document Retention

Thanks (b) (7) (C): I am familiar with at least one of these cases, if not both. Assuming our General Counsel (b) (7) (C) is ok with me going VFR-direct, I have no objections. I can't make the calls until mid week next, as I'm heading for BB's Spring Training on Sat for four days! ;-). Pls advise if this meets your needs. (b) (7) (C)

-----  
Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)

----- Original Message -----

From: (b) (7) (C) [REDACTED]  
To: (b) (7) (C) [REDACTED]  
Cc: (b) (7) (C) [REDACTED]  
Sent: Thu Mar 04 17:53:37 2010  
Subject: RE: Potential Litigation at NAS Key West - Document Retention

(b) (7) (C) (b) (7) (C) (b) (7) (C)

[REDACTED] and I have determined that two DoDIG Hotline Cases may have records that could be impacted by the potential litigation to which (b) (7) (C) in the Navy Litigation Office refers in his email, below.

They are DoD Hotline Numbers 105900 NAVINSGEN # 200800680) and 113851 (NAVINSGEN # 201000230).

(b) (7) (C) [REDACTED], I wanted to give you a heads up and I believe would like to discuss this matter with you further. If you are willing to discuss it directly with (b) (7) (C) or (b) (7) (C), who is working with him on this matter, that's fine with me. If you would prefer to work through NAVINSGEN, let me know.

We are going to discuss this matter with other NAVINSGEN divisions (b) (7) (C) [REDACTED]

(b) (7) (C) [REDACTED]

(b) (7) (C) direct dial number is (b) (7) (C); (b) (7) (C) is (b) (7) (C).

Thanks very much, (b) (7) (C)

(b) (7) (C) [REDACTED]

-----Original Message-----

From: (b) (7) (C) [REDACTED]  
Sent: Thursday, March 04, 2010 15:30  
To: (b) (7) (C) [REDACTED]  
Cc: (b) (7) (C) [REDACTED]  
Subject: Potential Litigation at NAS Key West - Document Retention

ATTOR (b) (7) (C) PRODUCT/ATTORNEY-CLIENT PRIVILEGED MATERIAL

Larry,

(b) (7) (C) [REDACTED]

(b) (5)

[Redacted text block]

[Redacted text block]

(b) (5)

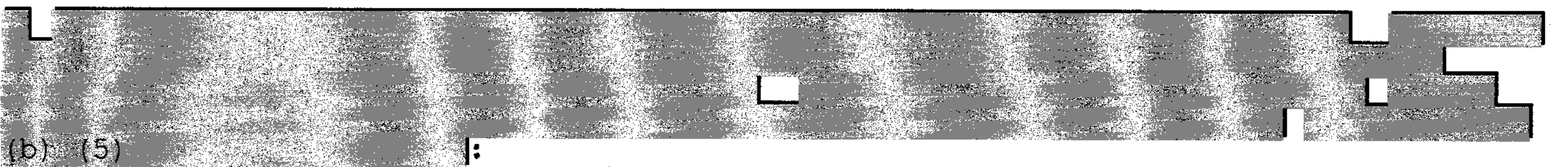
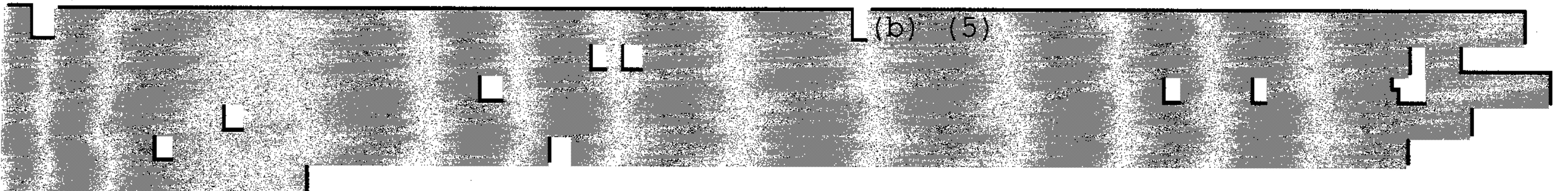
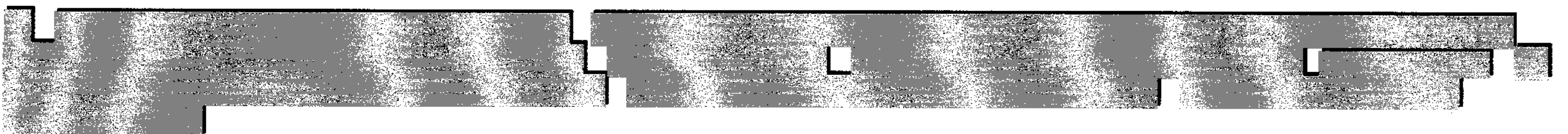
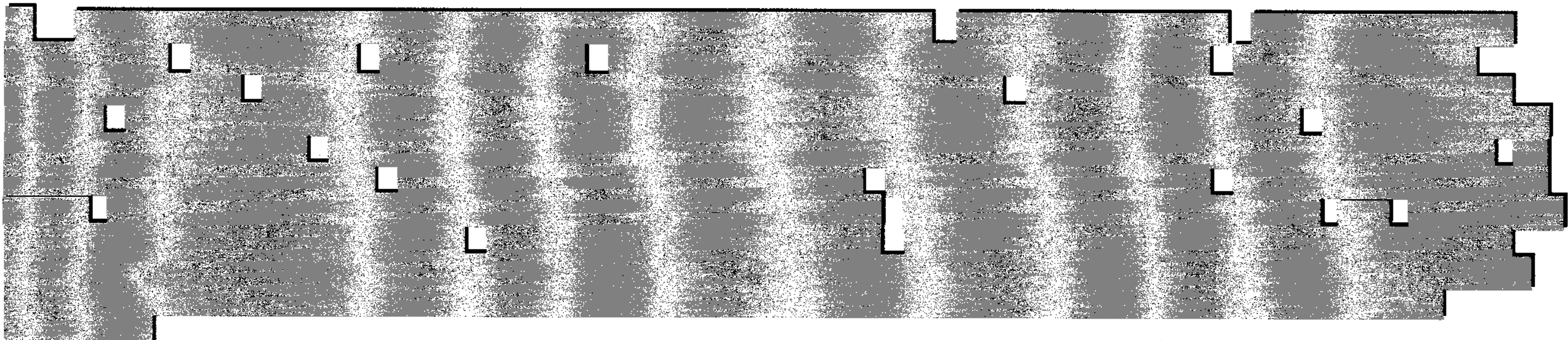
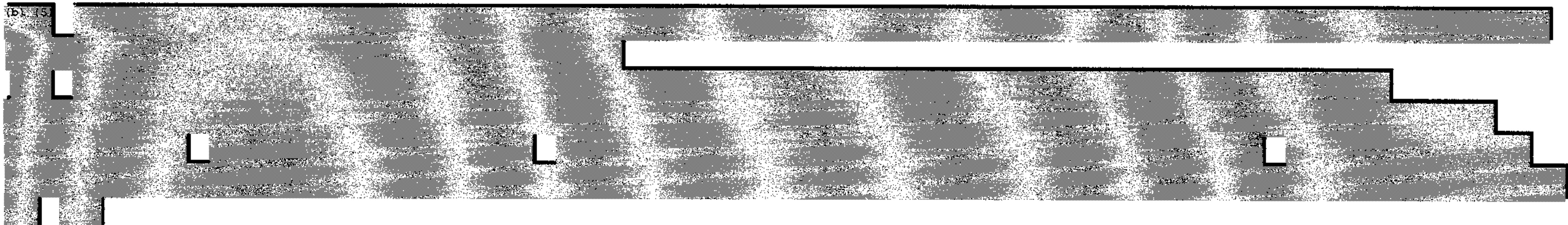
[Redacted text block]

(5)

[Redacted text block]

(b) (5)

(b) (5)



A. I have read the Litigation Hold notice and I have documents that are potentially relevant to the Hold Notice for the matter identified above.

- Yes
- No

B. I agree to preserve these documents and suspend destruction until OGC communicates that the Hold Notice for the specific matter has been lifted.

- Yes
- No

C. I agree to clearly mark the documents (boxes, files, cabinets, etc) to indicate that the documents are subject to a litigation hold. I agree further to segregate or otherwise maintain the documents to allow for retrieval as required in the litigation.

- Yes
- No

D. I agree to work with the IT personnel to insure all electronic documents are retained until OGC communicates that the Hold Notice for the specific matter has been lifted.

- Yes
- No

E. If you are on NMCI, the software application being used to retain electronic documents is called TRIM (DoD compliant). If you are not on NMCI, or if Trim has not yet been activated for your activity, alternative methods must be used to retain documents. This includes copying files to a CD or to a shared drive that is regularly backed up.

(b) (7) (C) [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b) (7) (C) [Redacted]

(b) (7) (C)

From: (b) (7) (C)  
Sent: Friday, February 19, 2010 11:05 AM  
To: (b) (7) (C)  
Cc: (b) (7) (C)  
Subject: RE: QUESTION REGARDING NEWS ARTICLE RELATED TO KEY WEST  
Signed By: There are problems with the signature. Click the signature button for details.

Thanks for the quick response. (b) (7) (C). Know your plate is full and very much appreciate your attentions, and those of your staff, on this matter.

Vr (b) (7) (C)

(b) (7) (C)  
(b) (7) (C)

(b) (7) (C)

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-----Original Message-----

From: (b) (7) (C) [IL]  
Sent: Friday, February 19, 2010 11:00  
To: (b) (7) (C)  
Cc: (b) (7) (C)  
Subject: Re: QUESTION REGARDING NEWS ARTICLE RELATED TO KEY WEST

Good morning (b) (7) (C): While I am well-aware of the "concerns" @ Key West your email alludes to, I am similarly unaware of any renewed interest from my organization in this issue. However, and as a result of this email, I will have this question researched and definitively "close-the-loop" with you (probably early next week). In the meantime, thank you for giving us the opportunity to serve your Command through you, and please have a restful weekend. (b) (7) (C)

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)

----- Original Message -----

From: (b) (7) (C)  
To: (b) (7) (C)  
Cc: (b) (7) (C)  
(b) (7) (C)  
Sent: Fri Feb 19 09:52:07 2010  
Subject: QUESTION REGARDING NEWS ARTICLE RELATED TO KEY WEST

Sir,

By way of introduction, I am the IG for the Commander, Navy Installations Command (CNIC). My (b) (7) (C) for the (b) (7) (C), forwarded to my attentions the below email from the (b) (7) (C) indicating that public interests have announced DoD IG has reopened a hotline complaint into allegations relating to the F/A-18 EIS.

Do you have any information or documentation relative to the media's assertion DoD IG has re-opened the investigation referred to in below/attached?

This is a critical Flag interest item for us and we are simply trying to determine the validity of the public statements. Any assistance you could provide would be greatly appreciated.

Vr/ (b) (7)(C)

(b) (7)(C)

OFFICIAL USE ONLY-PRIVACY SENSITIVE\*\*

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-----Original Message-----

From: (b) (7)(C)  
Sent: Monday, February 08, 2010 11:44 AM  
To: (b) (7)(C)  
Cc: (b) (7)(C)  
Subject:

Below please find the front page headline and story in our local paper on Sunday. I have taken out the formatting but the file is attached if needed. The headline was 1.5 inches bold print.

Can you please help us understand the "Integrity Committee's" decision to ask the IG to re-open an "investigation"? We are able to answer the EA VS. EIS questions, but we need to be able to respond to what the possibility of re-opening an investigation means. Obviously we are operating normally and will continue to do so while, per OPNAV instruction, engaging with the community and local officials (as we have been for many years). Thanks (b) (7)(C)!

Quote:

Feds reopen jet noise investigation

BY TIMOTHY O'HARA  
Citizen Staff

The Department of Defense has reopened an investigation into whether Navy officials altered or downplayed the effects of a report on the impacts of louder fighter jets coming to train at Naval Air Station Key West. The department sent Upper Keys resident John Hammerstrom a letter late last month telling him it was reopening a case into his complaint that Navy officials did not follow proper protocol before allowing F/A-18 Super Hornets to regularly train at the Boca Chica base. The Super Hornet training has been a source of noise complaints from Lower Keys residents. In 2007, Hammerstrom and members of the Florida Keys Citizen Coalition filed a complaint with Assistant Secretary for Navy Installations and Environment B.J. Penn. They asked him to determine if Key West Navy officials conducted a thorough enough review of the Super Hornet issue before allowing them to regularly fly over the Lower Keys, and if any parts of the report had been altered. Penn ruled that Key West of

officials had complied with Navy policy. Hammerstrom appealed the ruling to the Office of

the Inspector General, which also sided with the Navy in a ruling it made in April. Hammerstrom then appealed that decision to the Integrity Committee of the Council of the Inspector General. Late last month, the Integrity Committee sent Hammerstrom a letter saying it would ask the inspector general to reopen the case. The Navy completed an "environmental assessment" for Fleet Support and Infrastructure Improvements in 2003, which stated there was "no significant impact" to "offbase noise exposure." The Navy did not do a more thorough and Lower Keys-specific "environmental impact statement" because the Super Hornets train at Boca Chica but are based elsewhere, according to Penn's letter. The Integrity Committee, in its letter, did not explain why it wanted the case reopened, which comes at a time when public tension between the Navy and Lower Keys residents has subsided. The Monroe Co

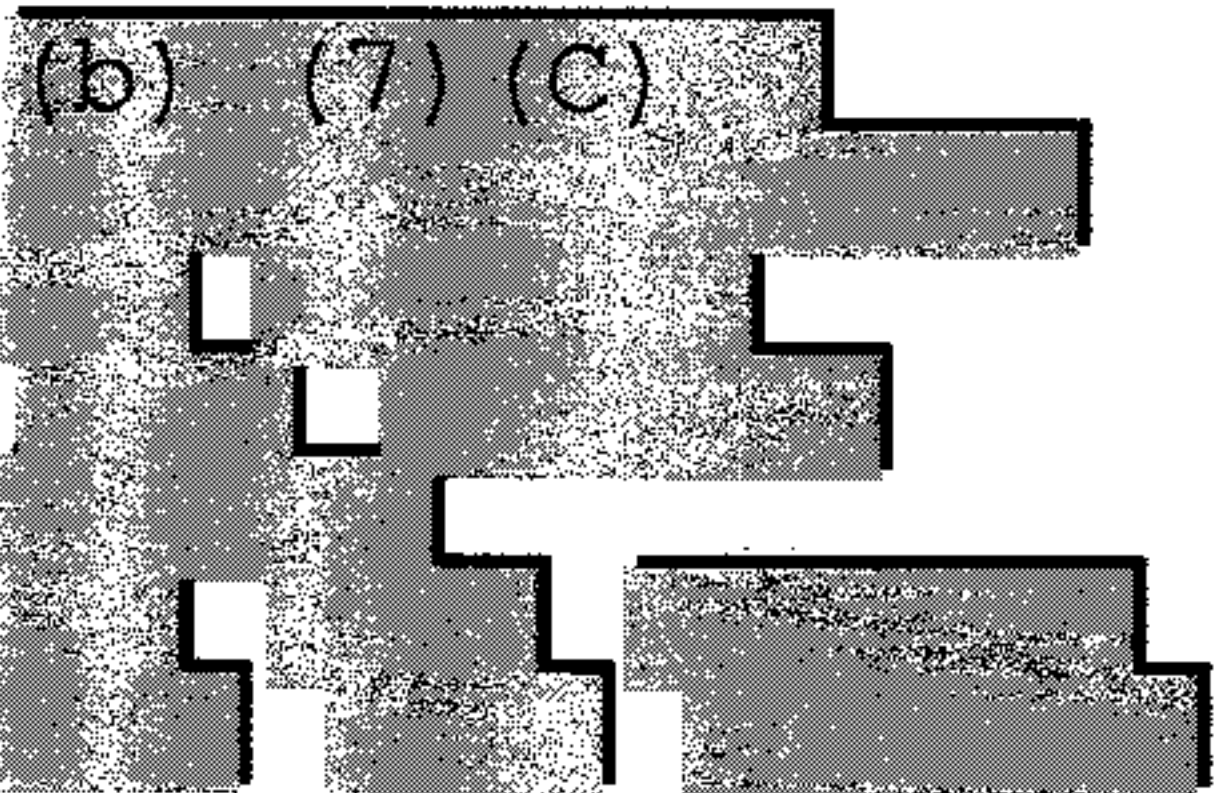
un ty Commission in March issued its strongest warning yet to the Navy, insisting it halt flight training operations involving Super Hornets. The county and Navy held one joint meeting after the request was made, but had not been able to agree on the best way to protect residents from the noise and still allow the Super Hornets to train. The Navy wants the county to limit development around the base to keep new residents from being affected by the noise, to which the county tentatively agreed. The county wanted the Navy to alter its flight paths. The Navy said it would as much as it could and still allow for training. The issue since has been on the back burner for both the Navy and County Commission. "We are back to operating the way we have always been operating," base spokesman Jim Brooks said. The noise debate has not died down in other areas of the nation. The issue is heating up in both Virginia and Arizona. Construction of single-family homes near Luke Air Force Ba

se w ill end under a settlement negotiated Tuesday among state and county officials, according to a report in the Arizona Republic newspaper. The agreement ends more than a year of fighting between Arizona's attorney general and the Maricopa County Board of Supervisors about the same residential encroachment issue Boca Chica base faces, the Arizona Republic reported. The settlement requires county officials to prohibit single-family development in high-accident and high-noise areas around Luke Air Force Base, Luke Auxiliary Airfield and Gila Bend Air Force Auxiliary Field. No such development has ever been prohibited in Monroe County, even though county commissioners said they would discourage it around Boca Chica in the future. Maricopa County Supervisor Don Stapley, chairman of the board, called the agreement an attempt to protect the public. "Our hope is that it will protect them - this is a safety issue, a welfare issue," he told the Arizona Republic. "You don't wan

t peop le building homes in crash zones in areas that are unsafe." Arizona's attorney general sued the county in August 2008 to stop it from issuing building permits for new homes in Luke's restricted areas. The county countersued, asking the courts to strike down as unconstitutional the law that prevented building in those areas. The county maintained that landowner property rights prevented the denial of building permits in the restricted zones. Lawmakers in Virginia are considering legislation that could give residents of southeast Virginia a significant boost in their fight against the proposed construction of a Navy outlying landing field, according to the Richmond Times-Dispatch. The bill would give localities more land use control by repealing existing provisions that require local governments to adopt Navy zoning ordinances, according to the Times-Dispatch. The proposal would thwart efforts to place a Navy outlying landing field, a training facility, in southeast V  
irginia.

tohara@keysnews.com  
End quote.

Very respectfully,

(b) (7) (C)  


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~~e-mail or by calling~~ (b) (7) (C) [REDACTED] .\*\*\*

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Published on KeysNews.com (<http://keysnews.com>)

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## Feds reopen jet noise investigation

Sunday, February 7, 2010

By TIMOTHY O'HARA Citizen Staff

The Department of Defense has reopened an investigation into whether Navy officials altered or downplayed the effects of a report on the impacts of louder fighter jets coming to train at Naval Air Station Key West.

The department sent Upper Keys resident John Hammerstrom a letter late last month telling him it was reopening a case into his complaint that Navy officials did not follow proper protocol before allowing F/A-18 Super Hornets to regularly train at the Boca Chica base. The Super Hornet training has been a source of noise complaints from Lower Keys residents.

In 2007, Hammerstrom and members of the Florida Keys Citizen Coalition filed a complaint with Assistant Secretary for Navy Installations and Environment B.J. Penn. They asked him to determine if Key West Navy officials conducted a thorough enough review of the Super Hornet issue before allowing them to regularly fly over the Lower Keys, and if any parts of the report had been altered. Penn ruled that Key West officials had complied with Navy policy.

Hammerstrom appealed the ruling to the Office of the Inspector General, which also sided with the Navy in a ruling it made in April.

Hammerstrom then appealed that decision to the Integrity Committee of the Council of the Inspector General. Late last month, the Integrity Committee sent Hammerstrom a letter saying it would ask the inspector general to reopen the case.

The Navy completed an "environmental assessment" for Fleet Support and Infrastructure Improvements in 2003, which stated there was "no significant impact" to "off-base noise exposure." The Navy did not do a more thorough and Lower Keys-specific "environmental impact statement" because the Super Hornets train at Boca Chica but are based elsewhere, according to Penn's letter.

The Integrity Committee, in its letter, did not explain why it wanted the case reopened, which comes at a time when public tension between the Navy and Lower Keys residents has subsided.

The Monroe County Commission in March issued its strongest warning yet to the Navy, insisting it halt flight training operations involving Super Hornets. The county and Navy held one joint meeting after the request was made, but had not been able to agree on the

best way to protect residents from the noise and still allow the Super Hornets to train. The Navy wants the county to limit development around the base to keep new residents from being affected by the noise, to which the county tentatively agreed. The county wanted the Navy to alter its flight paths. The Navy said it would as much as it could and still allow for training.

The issue since has been on the back burner for both the Navy and County Commission.

"We are back to operating the way we have always been operating," base spokesman Jim Brooks said.

The noise debate has not died down in other areas of the nation. The issue is heating up in both Virginia and Arizona.

Construction of single-family homes near Luke Air Force Base will end under a settlement negotiated Tuesday among state and county officials, according to a report in the Arizona Republic newspaper.

The agreement ends more than a year of fighting between Arizona's attorney general and the Maricopa County Board of Supervisors about the same residential encroachment issue Boca Chica base faces, the Arizona Republic reported.

The settlement requires county officials to prohibit single-family development in high-accident and high-noise areas around Luke Air Force Base, Luke Auxiliary Airfield and Gila Bend Air Force Auxiliary Field.

No such development has ever been prohibited in Monroe County, even though county commissioners said they would discourage it around Boca Chica in the future.

Maricopa County Supervisor Don Stapley, chairman of the board, called the agreement an attempt to protect the public.

"Our hope is that it will protect them -- this is a safety issue, a welfare issue," he told the Arizona Republic. "You don't want people building homes in crash zones in areas that are unsafe."

Arizona's attorney general sued the county in August 2008 to stop it from issuing building permits for new homes in Luke's restricted areas. The county countersued, asking the courts to strike down as unconstitutional the law that prevented building in those areas. The county maintained that landowner property rights prevented the denial of building permits in the restricted zones.

Lawmakers in Virginia are considering legislation that could give residents of southeast Virginia a significant boost in their fight against the proposed construction of a Navy outlying landing field, according to the Richmond Times-Dispatch.

The bill would give localities more land use control by repealing existing provisions that require local governments to adopt Navy zoning ordinances, according to the Times-

Dispatch.

The proposal would thwart efforts to place a Navy outlying landing field, a training facility, in southeast Virginia.

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