

1012

GOVERNMENT
Storage

DOCUMENTS

YA
Ar5/2
N22/6

96 Y4
Ar-5/2
N 22/6

COMMITTEE PRINT

NO. 31
MAR 9 1981

FARRELL LIBRARY
KANSAS STATE UNIVERSITY

NAVAL TRAINING ACTIVITIES ON THE ISLAND OF VIEQUES, PUERTO RICO

REPORT

OF THE

PANEL TO REVIEW THE STATUS OF NAVY
TRAINING ACTIVITIES ON THE ISLAND
OF VIEQUES

OF THE

COMMITTEE ON ARMED SERVICES
HOUSE OF REPRESENTATIVES
NINETY-SIXTH CONGRESS

SECOND SESSION

FEBRUARY 3, 1981



Printed for the use of the Committee on Armed Services

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1981

73-382 O

KSU LIBRARIES
64244 474249 ✓
006TTV
11900

8/10/54
H-2/5
N 35/15

U.S. Congress
2d Session

1/1
AC 2/1
N 2/1

PANEL TO REVIEW THE STATUS OF NAVY TRAINING ACTIVITIES ON
THE ISLAND OF VIEQUES

RONALD V. DELLUMS, California, *Chairman*

MENDEL J. DAVIS, South Carolina

WILLIAM L. DICKINSON, Alabama

BOB CARR, Michigan

MELVIN H. EVANS, Virgin Islands

PETER C. SCRIVNER, *Professional Staff Member*

ALMA B. MOORE, *Research Assistant*

(II)

LETTER OF TRANSMITTAL

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., February 3, 1981.

HON. MELVIN PRICE,
*Chairman, Committee on Armed Services,
U.S. House of Representatives,
Washington, D.C.*

DEAR Mr. CHAIRMAN: I am forwarding to you a copy of the final report of the Panel to Review the Status of Navy Training Activities on the Island of Vieques, Puerto Rico.

The report is based upon an extensive hearing record, including on site hearings on Vieques. It is organized into three major sections in order to provide a comprehensive overview. The last section entitled "Concluding Views of the Panel" contains the individual views of the panel members.

I shall appreciate your approval of the report so that it may be printed.

Respectfully,

RONALD V. DELLUMS,
Panel Chairman.

Enclosure.

Approved for printing:
MELVIN PRICE, *Chairman.*

LETTER FROM THE EDITOR

The following is a list of the names of the members of the committee who have been appointed to investigate the charges against the members of the faculty of the University of California, Berkeley, who were accused of having engaged in a conspiracy to defame the Soviet Union and its allies.

The names of the members of the committee are: [illegible]

The committee will hold its first meeting on [illegible] at [illegible].

Very truly yours,
[illegible]

FOREWORD

This report of the Panel to Review the Status of Navy Training Activities on the Island of Vieques, Puerto Rico, is submitted pursuant to committee rule 5 of the Rules of the Committee on Armed Services. That rule authorizes the chairman of the committee to appoint panels to investigate subjects that involve the jurisdiction of more than one of the standing subcommittees.

Controversy over the Navy's use of the island as a training complex, resulting in organized protests in Vieques, prompted the chairman of the committee, at the recommendation of Representative Ronald V. Dellums of California, to establish a panel to investigate the matter.

On October 5, 1978, Chairman Price appointed a full committee panel to review the status of, and future requirements for, Navy training activities on the Island of Vieques, Puerto Rico. At the time, several suits had been brought against the Navy to stop training on the island. The Federal District Court, San Juan, Puerto Rico, was hearing the cases then.

Because of that active litigation and pending congressional adjournment of October 15, 1978, the panel concentrated on a review of the Vieques problems at the staff level for consideration by the committee at a later date.

On December 3, 1979, Chairman Price reappointed a full committee panel to review the status of naval training activities on the Island of Vieques, Puerto Rico. On December 20, 1979, the panel met and established the scope and time table of its review. The focus of the review was on the requirements for the training facilities, Puerto Rico's perspective of the Navy's presence on the island, and the Navy's view of any Puerto Rican concerns and exploration of alternatives, if any, to current naval training practices.

On May 28 and 29, 1980, the panel held hearings in Washington, D.C. Testimony was received from Navy officials, Department of Defense representatives and public witnesses. In addition the panel received briefings from the Defense Intelligence Agency and the Federal Bureau of Investigations.

On July 10 and 11, 1980, the panel held on site hearings in Vieques. Testimony was received from the Governor of Puerto Rico, local government officials and public witnesses.

On September 24, 1980, the panel held a concluding hearing to receive additional information from the Department of the Navy, the Environmental Protection Agency and the public on various technical issues.

The report is based upon the panel's extensive hearing record, involving 38 witnesses, related documents, and examination of the issues concerned with the Navy's use of the Island of Vieques as a multifaceted training complex. It is organized into three major sections in order to provide a comprehensive overview. These sections include

a profile on the role and mission of the Vieques training complex, a review of background issues associated with the controversy and the concluding views of the panel members.

VIEQUES TRAINING COMPLEX

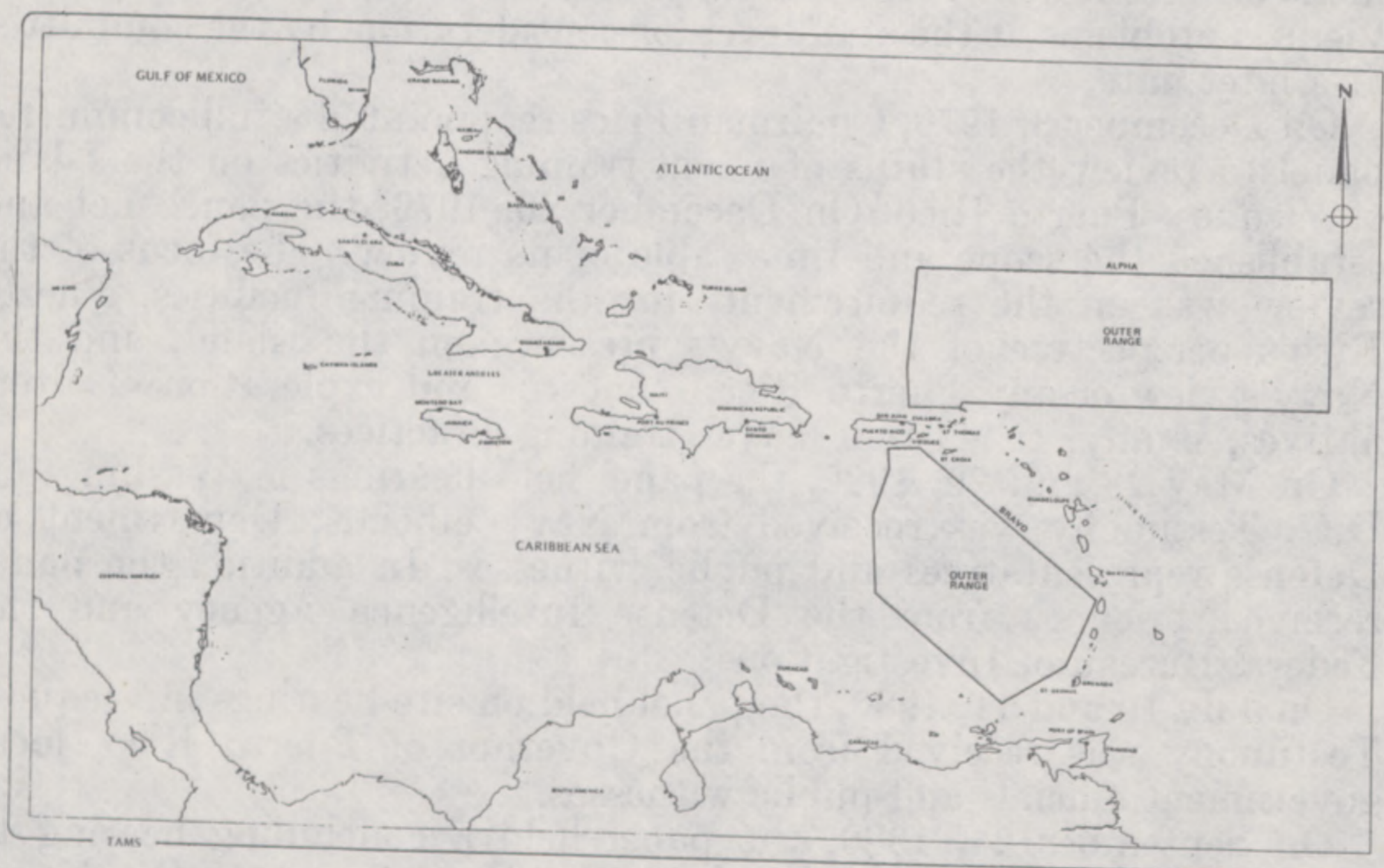
The Navy and Marine Corps conduct Atlantic fleet training and readiness exercises at the Puerto Rico-Virgin Island complex known as the Atlantic Fleet Weapons Training Range (AFWTR). Centered around Roosevelt Roads, Puerto Rico, the complex consists of four ranges: The inner range on the east end of the Island of Vieques, the outer range which is an easterly ocean range extending both north and south of Puerto Rico, the underwater tracking range at St. Croix, Virgin Islands; and an electronic warfare range which overlaps all of the ranges.

THE ISLAND OF VIEQUES

The island of Vieques is located in the Caribbean Sea approximately 7 miles southeast of Puerto Rico and 22 miles southwest of St. Thomas, U.S. Virgin Islands (see Map 1). Vieques is a long narrow island nearly

MAP 1

VIEQUES AND OUTER RANGES



20 miles long and 4.5 miles wide at its widest point. It has an area of about 33,000 acres or 51 square miles of land and according to the 1970 census a population of 7,767. The island's two towns, Isabel Seguinda and Esperanza, have populations of 2,378 and 620, respectively. The other residents are classified as rural inhabitants. Vieques is a civilian municipality of the Commonwealth of Puerto Rico and is divided into seven wards (barrios).

HISTORY OF NAVAL PRESENCE ON VIEQUES

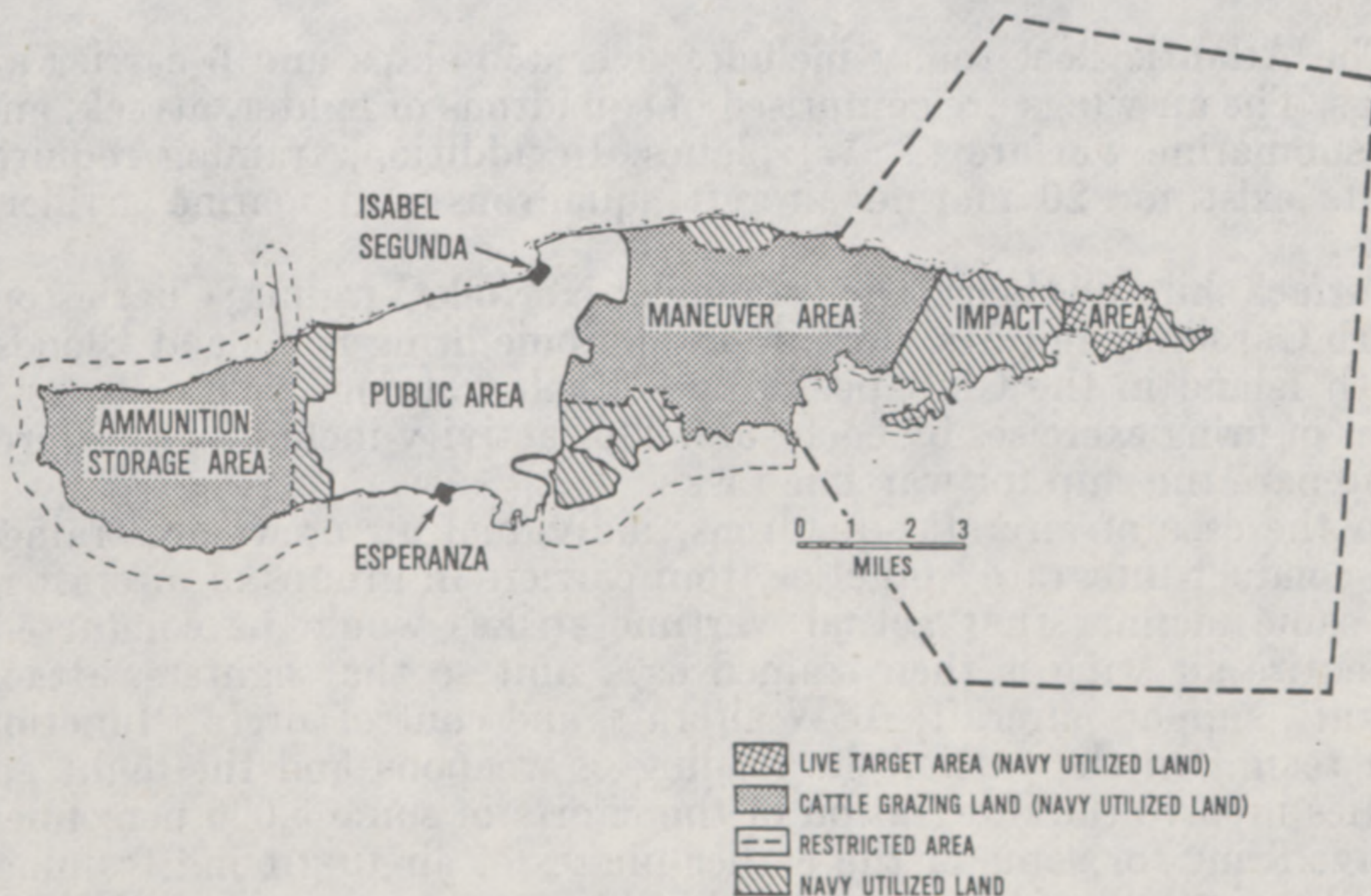
During World War II, the Navy acquired land on Vieques through condemnation. Between November 1941 and September 1942, the Navy obtained 10,209 acres of land from Juan Tio (owner of Playa Grande sugar mill and sugar cane lands) for \$379,300; 7,940 acres from Eastern Sugar Associates (owner of Esperanza sugar mill and sugar cane lands) for \$423,000; approximately 1,000 acres from two families (Benitez and Rieckehoff); and about 2,000 acres from another 100 smaller owners. The approximate total of the 21,100 acres of acquired Navy land cost \$1,041,500.

When the Navy started acquiring land on Vieques, approximately 800 families who worked the sugar cane fields were relocated to Navy property. The relocated families, who were tenants, were not given title to the land, but they did receive parcel assignments granting them permission to occupy the land. The assignment document stipulated that tenants could be required to vacate within 30 days and that they could not transfer lots. To house these families, the Navy provided the materials, and the insular government provided the labor to build homes of equal size to the ones that were vacated.

In 1950 another 4,340 acres were acquired for amphibious training and maneuver exercises from seven private owners, the insular government, and an estate, for a total of \$520,400. At present the Navy owns about 25,300 acres of land at a cost of \$1,561,900, but controls approximately 22,605 acres or 68 percent of the island. The difference (2,627 acres) has been transferred to GSA for excessing; the relocated families now live on much of this land; and squatters have staked out the rest. In addition, the local cattlemen's association leases 14,280 acres for cattle grazing. This lease costs them \$6,000 annually.

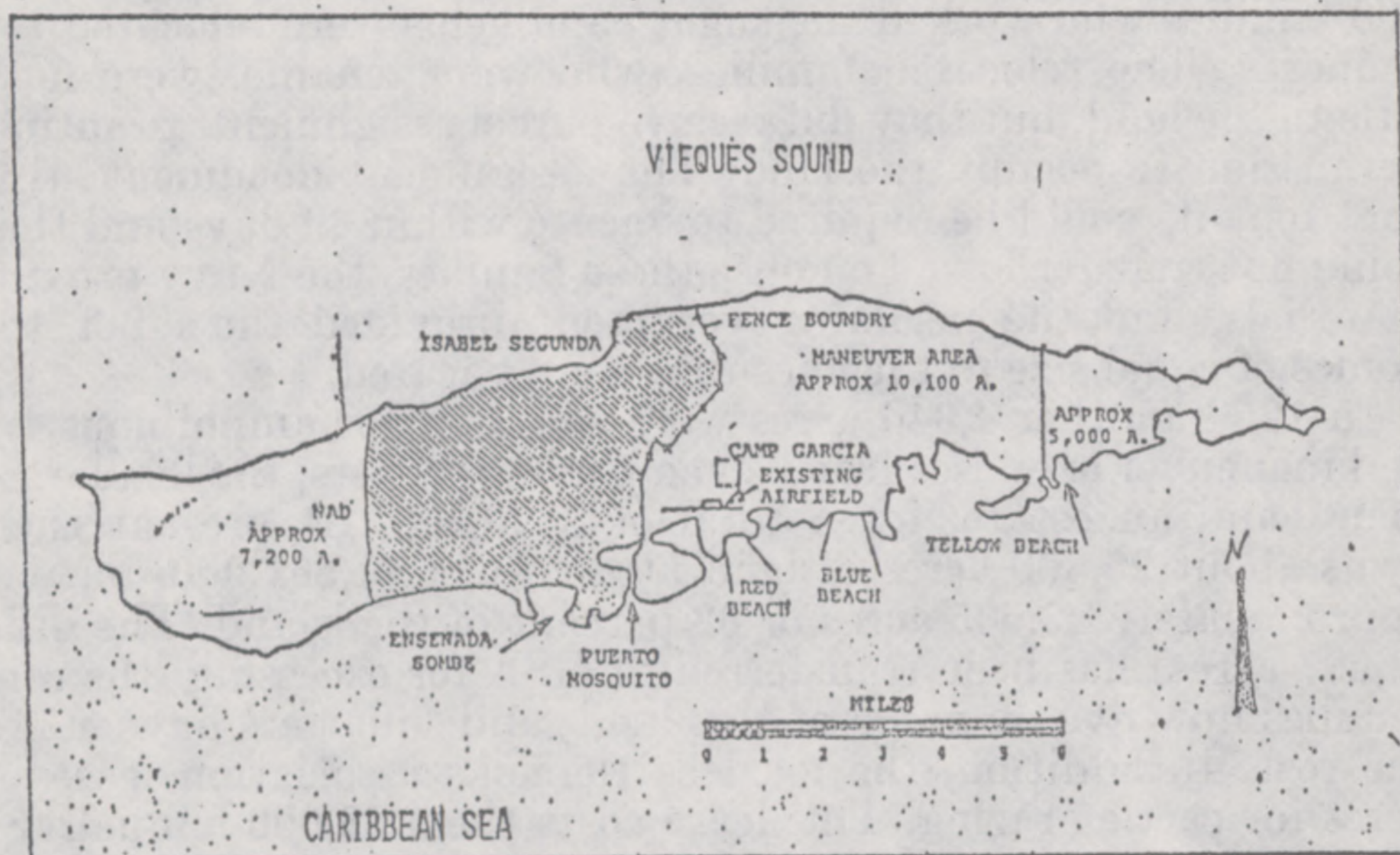
MAP 2

VIEQUES LAND USE



The Navy retains exclusive use of about 25 percent (8,325 acres) of the overall land consisting of the impact area (3,500 acres), portions of the maneuver area excluded from cattle lease (3,925 acres), and portions of the ammunition storage area excluded from cattle lease (206 acres). Another 700 acres in small parcels at various locations on Vieques are used for many different purposes. The impact of live ordnance is to an area of 700 acres; this is 2.1 percent of the entire land (Maps 2 and 3).

MAP 3



Vieques Island.

TAB A

ATLANTIC FLEET TRAINING—OVERVIEW

The Atlantic fleet today includes over 150 ships and 6 carrier air wings. The air wings are comprised of squadrons of fighter, attack, and antisubmarine warfare (ASW) planes. In addition, training requirements exist for 20 marine aircraft squadrons and marine artillery units.

Surface ships do their basic training at Norfolk, Virginia; Charleston, South Carolina; and Mayport, Florida. Some firing is done at Bloodsworth Island in the Chesapeake Bay. Each training cycle calls for a series of firing exercises by each ship. This activity includes procedures to prepare the ship for wartime tasks.

In the case of aircraft squadrons, individual air crews are trained and conduct integrated practice from carriers in groups of aircraft in the same manner that actual wartime strikes would be conducted. An entire air wing is then trained as a unit so that fighters, attack aircraft, support aircraft, ASW aircraft, and control aircraft function as a team. On the carrier the loading of weapons and the flight activities involve the integration of the efforts of some 5,000 personnel.

Live firing for some of the earlier phases of air-to-ground training, including individual and squadron proficiency, is normally conducted at target complexes in Maryland, Florida, and Arizona. Neither

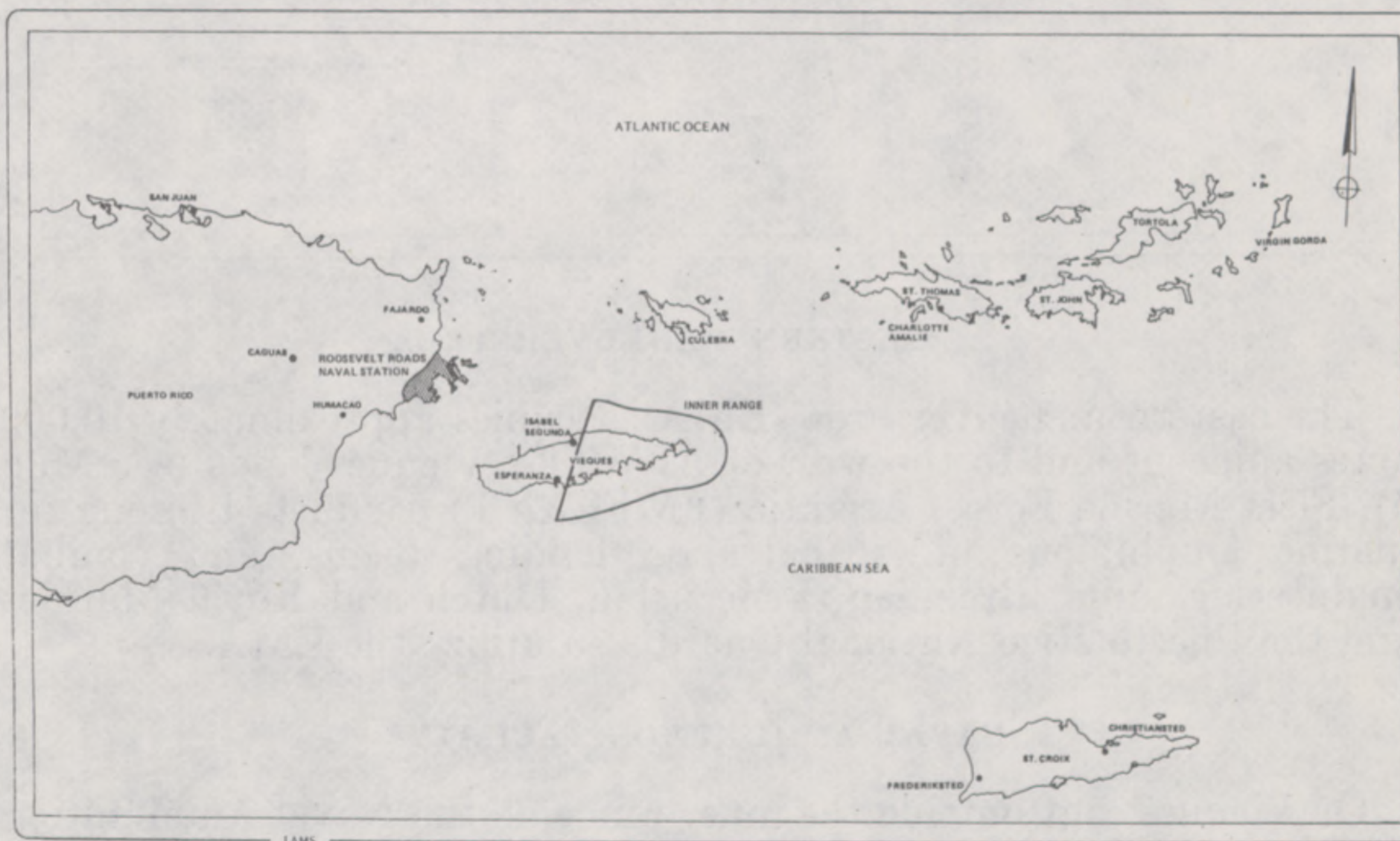
Bloodsworth Island nor the air-to-ground target complexes in Florida and Arizona have the capability for conducting coordinated exercises. Of the Navy's east coast complexes (other than Vieques) only Bloodsworth has the capability for both air-to-ground and naval gunfire support training. According to the Navy, these activities cannot be conducted there simultaneously (i.e., in a coordinated exercise). Additionally, Bloodsworth is closed 3 months of the year to provide habitat for migratory waterfowl.

VIEQUES TRAINING FACILITIES

According to the Navy's environmental impact statement on Vieques, on which much of the description of the training facilities and activities is based, naval training on the island is conducted within an area known as the inner range, which encompasses an area extending to a limit of 3 miles from the shores of the eastern end of Vieques. Map 4 depicts the location of the inner range on Vieques and the location of

MAP 4

VIEQUES AND INNER RANGE



Roosevelt Roads Naval Station, Puerto Rico, which is the main support base for naval activities on the inner range.

Within the inner range the Atlantic fleet's surface ships, aircraft and marine forces carry out training in all aspects of naval gunfire support; air-to-ground ordnance delivery; air-to-surface mine delivery; amphibious landings; small arms, artillery and tank fire; and combat engineering. Two facilities comprise the inner range: the Atlantic Fleet Weapons Training Facility on Vieques and the eastern maneuver area.

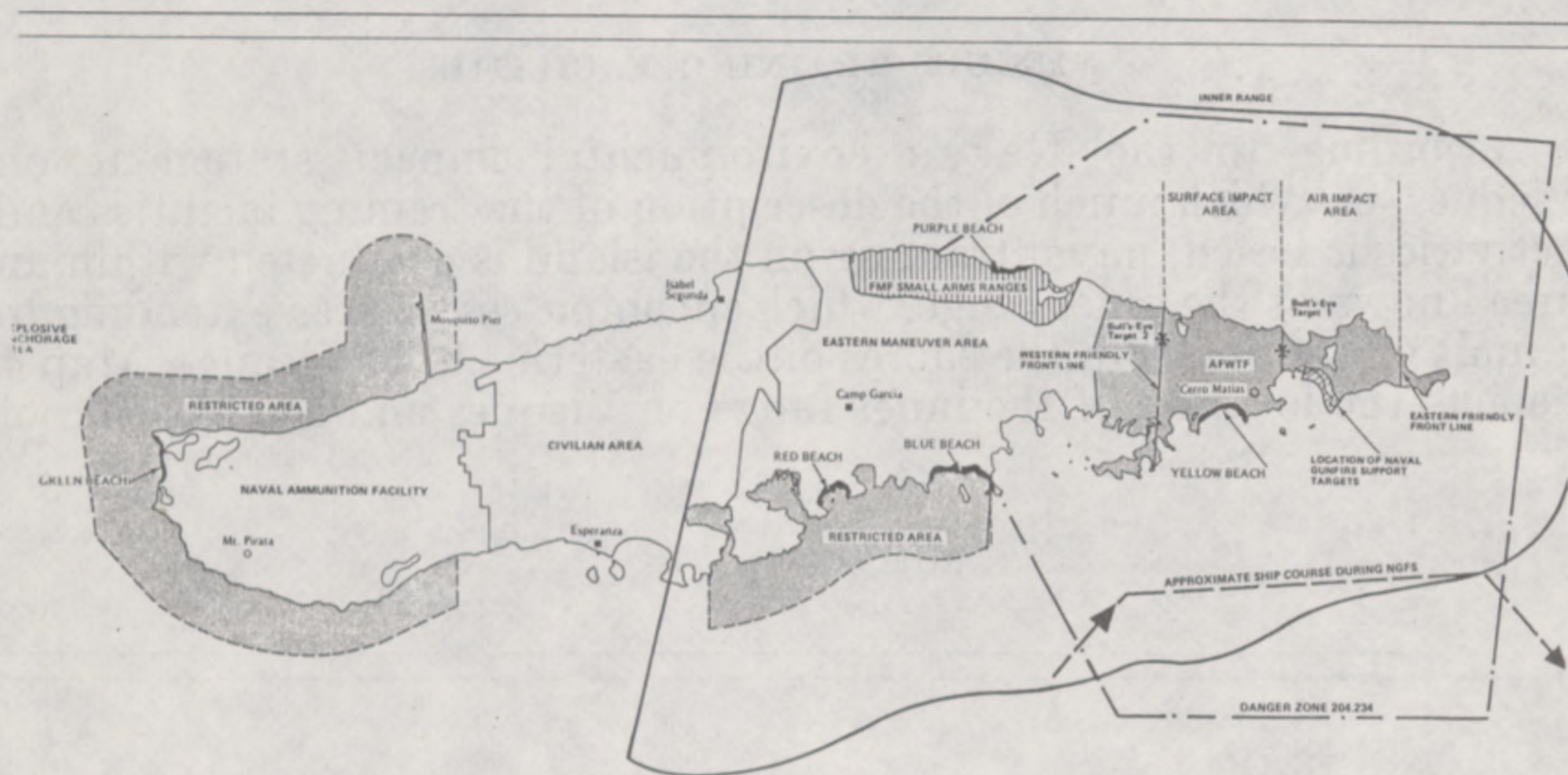
ATLANTIC FLEET WEAPONS TRAINING FACILITY

The Atlantic Fleet Weapons Training Facility (AFWTF) on Vieques is responsible for providing facilities, scheduling and conducting naval gunfire support and air-to-ground ordnance delivery training for 96 Atlantic Fleet ships, 30 NATO ships, eight air wings (approx-

mately 50 to 70 aircraft comprise an air wing), and smaller air units from Great Britain and the Puerto Rico National Guard. In addition AFWTF tests and evaluates weapons systems to enhance fleet readiness. On Vieques, AFWTF occupies roughly 5,000 acres on the eastern tip of the island as shown on Map 5.

MAP 5

ATLANTIC FLEET FACILITIES ON VIEQUES



TAMS

EASTERN MANEUVER AREA

The eastern maneuver area (EMA) occupies approximately 10,000 acres adjacent and to the west of AFWTF's Vieques lands (see Map 5). Fleet Marine Force, Atlantic (FMFLANT) conducts training for marine amphibious units, battalion landing teams, and combat engineering units. Brazilian, Venezuelan, Dutch and Royal Marines and the Puerto Rico National Guard also utilize the EMA.

NAVAL AMMUNITION FACILITY

On Vieques, but outside the inner range, is the Naval Ammunition Facility (NAF) which occupies approximately 8,000 acres on the western tip of the island. Operated by Roosevelt Roads, its mission is to receive, store and issue all ordnance authorized by the naval station for support of Atlantic Fleet units. At present training exercises are not carried out at the NAF, although marine landing operations have been conducted along the south and west beach areas in the past and may be conducted again in the future.

Together these three facilities (i.e., AFWTF's area on Vieques, the EMA and the NAF) constitute 22,000 of the 33,000 acres of the island. In addition to these Navy lands, the Federal Government owns about 2,600 acres of land which is considered excess. The lands are located in the central civilian portion of the island and include the Santa Maria tract, the Montesanto tract and the Martineau tract. The re-

mainder of the island is owned by the Commonwealth of Puerto Rico or is in private hands.

The activities at AFWTF, EMA and NAF function under the consolidated command of Commander Fleet Air Caribbean, Naval Forces Caribbean and Antilles Defense Command whose headquarters are at Roosevelt Roads. The commanding officer of AFWTF has jurisdiction over scheduling all naval exercises in the inner range.

VIEQUES—TRAINING ACTIVITIES

Naval gunfire support

The Navy requires all ships assigned shore bombardment operational capability to maintain naval gunfire support qualifications. Along with the Bloodsworth Island training area, AFWTF is responsible for qualifying the approximately 96 Atlantic Fleet ships which are so designated. Ships must attain qualifications annually. In order for a U.S. ship to qualify it must successfully complete five fire missions, each of which is designed to test a different aspect of the ship's ability to provide fire support for tactical landings of troops ashore. Each ship normally has 2 days on the range to complete the five missions. Types of ships which train for naval gunfire support are destroyers, frigates, cruisers and amphibious ships. In addition to U.S. ships, AFWTF provides training services for roughly 30 NATO ships annually.

FMFLANT also utilizes the inner range to train shore fire control parties (spotters). Training entails live firing by the ships and target adjustment by Marine spotters. Approximately 16 days and 2,000 rounds of ammunition are expended annually in this training.

Facilities utilized in naval gunfire support (NGFS) training are the observation post at Cerro Matias, six point targets and two area targets. Map 6 shows the locations of these facilities. The naval gun-

MAP 6

SURFACE AND AIR IMPACT AREAS



fire support range officer directs the exercises from Cerro Matias, and he is in voice contact with the ship or ships. During the exercise, AFWTF personnel record the accuracy and the elapsed time of naval gunfire so that AFWTF can score the performance of each ship to determine if it has qualified.

Currently, NGFS training takes up about 108 days or a total of 1,275 hours per year and expends almost 9,000 rounds which carry more than 36 tons of explosives. The typical round is a 5-inch wheel weighing approximately 80 pounds of which eight pounds are explosive.

Monthly activities vary widely from 1 day with no rounds fired to 19 days with more than 2,000 rounds fired. The peak activity months are usually February when the annual fleet maneuvers (called READEX) occur and to a lesser extent July and August when the CARIBOPS exercises are scheduled.

There has been an increase in NGFS training activity on Vieques over the last 5 years. The number of days of NGFS training has been increasing about 2 days per year and the number of rounds by approximately 500 rounds per year.

Air-to-ground training

For air-to-ground (ATG) training, AFWTF provides training facilities for 400 to 560 aircraft of which 300 to 420 take off from carriers. The remaining aircraft use the Roosevelt Roads airfield as a take-off point. Aircraft arrive in groups of 50 to 70 per air wing and remain for training an average of 10 to 14 days. They practice dive bombing, low level attacks, strafing and mining exercises. The aircraft are generally A-6 and A-7 attack aircraft and F-4 fighter bombers.

Currently, ATG training takes up about 115 days per year (some overlap occurs between NGFS and ATG training) and expends more than 30,000 pieces of ordnance (not including 200mm strafing rounds) and 533 tons of explosives. Not all the ordnance is live; about 18 percent are live bombs containing explosives, 32 percent are inert bombs or rockets which are filled with sand or concrete instead of explosives and the remaining 50 percent are "practice" bombs which weigh about 25 pounds and contain no explosives. Almost 80 percent of the live bombs, which can only be dropped in the air impact area, are the Mark 82 series which weigh 500 pounds, including 192 pounds of explosives, but 1,000 and 2,000 pound bombs are also used.

ATG training peaks in levels of activity as do naval gunfire exercises. Although an average month would be a little more than nine days (or 102 hours) of ATG training with about 2,500 bombs being expended, peak months account for 22 days (268 hours) and over 7,600 bombs dropped, while other months may not have any training. The number of live bombs dropped per month varies from zero to 1,000 with an average of almost 400.

Like NGFS training, ATG training days of range use reach high levels in February, July and August during the major exercises of the fleet. However, peaks in number of live bombs dropped occur in November and December (a low period for naval gunfire) and to a lesser degree in March and April.

The current use of the inner range for ATG training is more extensive than in the past. In the 1973 to 1978 period, for example, the average number of bombs dropped per month increased from 220 to

over 2,200. According to the Navy, the increase is the result of incomplete recordkeeping in earlier years which may have been as high as 50 percent undercounted. Days per month of range use have increased from about 4 to 11 days (as of July 1978). ATG training levels are projected to increase in the future.

Amphibious exercises

Fleet Marine Force, Atlantic, the Puerto Rico National Guard and foreign marine forces use the eastern maneuver area for training for amphibious landings, maneuvers, small arms and artillery practice, and combat engineering. Map 5 shows the locations of red, blue yellow and purple beaches which are used for amphibious landings.

Currently Fleet Marine Force units train for about 16 days per year of which nine days are amphibious landings. Marines fired over 5,000 rounds of artillery which delivered 3.7 tons of explosives. February, May and June have been the peak months of training. The current Marine use of the eastern maneuver area is less than past usage. In 1974, for example, Marines fired over 30,000 rounds carrying over 100 tons of explosives, and amphibious landings took place on 31 days.

BACKGROUND OF THE CONTROVERSY

To understand the current controversy over the Navy's presence and use of Vieques, it is necessary to discuss two related events. The first involves the Navy's use of the island of Culebra as a training area and the second concerns the Commonwealth of Puerto Rico's legal efforts to enjoin the Navy from using the Vieques training complex.

CULEBRA

Until 1975 the Navy had, for more than a quarter of a century, used two islands off the eastern end of Puerto Rico for weapons training—Culebra and Vieques. Beginning in 1970, the Navy found itself involved with Culebra politics to varying degrees. What began in the eyes of Navy leaders as a local issue involving a move to return Navy lands to the residents became a congressional issue. The Navy eventually lost its Washington level fight to keep Culebra.

As part of Public Law 93-166, the fiscal year 1974 Military Construction Authorization Act, Congress authorized funds for the construction and equipping of substitute facilities which were to be relocated from Culebra. The relocation was expressly conditioned on the conclusion of a satisfactory agreement between the Navy and the Commonwealth of Puerto Rico in which the commonwealth would make suitable lands available for use as a replacement site. Negotiations were being conducted when former President Nixon directed that weapons training on Culebra be terminated in 1975.

Following the presidential decision, the Navy/commonwealth negotiating team charged with finding an alternative site for Culebra weapons training was replaced by a Joint DOD-Commonwealth of Puerto Rico Commission. Although the Navy terminated its use of Culebra and its surrounding cays for weapons training in 1975 in accordance with the presidential decree, the commission has not, to date, identified a mutually satisfactory and feasible alternative.

The commonwealth proposed relocation of weapons training to the islands of Monito and Desecheo, but the proposal was rejected because of the islands' proximity to international straits. The commonwealth then recommended Dog Island, an uninhabited United Kingdom possession 134 miles east of Roosevelt Roads. Although Dog Island does not meet the requirements of Public Law 93-166, that the land is commonwealth land, the DOD representatives agreed to consider the alternative, and requested authorization from the British Government to conduct a survey to assess the operational economic and environmental feasibility of developing a weapons range. The study was completed and the Navy determined from an operational standpoint that Dog Island was not an acceptable alternative.

The Culebra commission was reconstituted in the spring of 1977 as a result of the change of administrations in both the Federal Government and the commonwealth. The commission met in July and October 1977 to discuss replacement alternatives without substantive results. There have been no meetings since that time because of the current litigation.

With the loss of training at Culebra, the two target complexes left on Vieques have become the only remaining unrestricted weapons training complexes available to the Atlantic Fleet. According to the Navy, the loss of Vieques would mean a loss in investment of \$17.2 million. The Navy's land acquisition cost is \$1.4 million; the current replacement cost of the facilities (less land) is \$107.9 million.

COMMONWEALTH OF PUERTO RICO LEGAL ACTION

In 1977, the administration of Governor Carlos Romero Barcelo began to express increasing opposition to the Navy's use of Vieques—particularly at the Culebra commission meetings in July of 1977. That opposition culminated in the lawsuit filed by the Governor in March of 1978.

An extensive hearing was conducted from September to December 1978 in the United States District Court for the District of Puerto Rico, on a suit by the Governor of Puerto Rico and other plaintiffs, to have the Navy enjoined from using Vieques for weapons training purposes.

On September 17, 1979, U.S. District Judge Juan R. Torruella issued his decision and order in the cases of *Carlos Romero Barcelo, et al.* Plaintiffs, and *Carlos Zenon, et al.*, Plaintiffs-Intervenors v. *Harold Brown, et al.*, Defendants and *Louis Medina, et al.*, Plaintiffs and *Fundacion Arquelogica, Antropologica e Historia de Puerto Rico*, Plaintiff-Intervenors v. *Harold Brown, et al.*, Defendants.

The plaintiffs' complaints alleged violations of 27 Federal and Puerto Rican statutes, executive orders, and constitutional provisions. Judge Torruella found that the Department of the Navy was in technical violation of three of them: the National Environmental Policy Act (NEPA), by failing to file an environmental impact statement; Executive Order 11593, by failing to nominate historical sites to the Keeper of the National Register; and the Clean Water Act, by failing to file for a National Pollutant Discharge Elimination System (NPDES) permit. All other counts in the complaints were dismissed.

The opinion stated that:

The Island of Vieques is the only place presently available wherein the Atlantic Fleet can conduct the full range of exercises under conditions similar to simulated combat. It is the only place which possesses the potential or existing capability to conduct combined exercises involving air-to-ground ordnances delivery, Marine amphibious assaults, anti-submarine warfare, surface-to-air missiles, close support bombardment, and electronic warfare; in short everything that a battle ground would undertake to secure our sea lanes from interdiction by hostile forces. Furthermore, being that the ultimate mission in combat is the delivery of live ordance to the enemy, it is an essential element of training that the personnel be fully exposed to its use, both psychologically and in terms of actual skills. Vieques is the only location presently available wherein this training can be conducted within permissible peace time parameters.

Considering all of the above, the Court is of the opinion that under the present circumstances the continued use of Vieques by Defendant Navy for naval training activities is essential to the defense of the Nation and that the enjoining of said activities is not an appropriate relief for the correction of the cited statutory violations.

The order of the court called for the establishment of a timetable for compliance, which was published in a supplementary court order on November 2, 1979. The terms of that order are as follows:

- (1) The court retains jurisdiction over the case;
- (2) The application for an NPDES permit will be filed with the Environmental Protection Agency (EPA) by December 28, 1979;
- (3) Nominations shall be made by March 21, 1980, to the Secretary of the Interior, of those sites on Vieques that may be eligible for inclusion in the National Register of Historic Places. A list of the sites which the Department of the Navy contemplates nominating shall be submitted to the court by December 28, 1979. The department was ordered to post those sites which were eligible and to report steps taken to protect them;
- (4) A Draft Environmental Impact Statement (DEIS) shall be filed with EPA on December 28, 1979, and on that same date, the Department will submit to the court a timetable for completion of the Final Environmental Impact Statement (FEIS);
- (5) The department is required to submit a status report to the Court every 60 days starting on December 28, 1979.

The order of the court called for the establishment of a timetable for compliance, which was published in a supplementary court order on November 2, 1979. The terms of that order are as follows:

The application for a NPDES permit was filed with EPA Region II in New York, on December 28, 1979. The application is still under review at that office. The entire permitting process could take as long as one year from the filing of the application.

On March 31, 1980 the Navy submitted documentation to, and requested the opinion of, the Keeper of the National Register concerning 10 archeological sites on Vieques. The keeper has indicated

that all 10 sites are eligible for nomination. Additional field work on remaining sites continues, and that work indicates that seven additional sites should be submitted to the Keeper for opinion. Documentation is being prepared for submission to the Keeper as quickly as possible. If laboratory analysis of the field work indicates additional eligible sites, documentation of those sites will also be submitted to the Keeper. In the interim, potential sites are required full protection.

The DEIS concerning the Navy's continued use of Vieques was filed with the EPA on December 28, 1979. On January 21, 1980, notice was published at 45 Federal Register 3946, announcing the availability of the DEIS for review and providing an extended comment period, until April 15, 1980, in view of the Secretary of the Navy's decision not to hold public hearings on the DEIS. In response to the request for public hearings by counsel for Governor Romero-Barcelo, the Secretary of the Navy extended the comment period until May 15, 1980; notice of this extension was published at 45 Federal Register 26117. As a result of this extension, the FEIS was filed at the end of October 1980. It is under review by EPA.

On November 14, 1979 Governor Romero-Barcelo filed a notice of appeal with the First Circuit. No schedule for briefs and argument will be available until the complete record of hearing is filed with the Clerk of the Court of Appeals for the First Circuit. The governor received a 30-day extension of the deadline for filing his appellate brief with the First Circuit. At the end of this period, on April 30, 1980, the governor's brief was filed.

The brief raises eight issues on appeal:

- whether the Navy violated acts of Congress by an alleged transfer of activities from Culebra to Vieques;
- whether the Navy has violated the Endangered Species Act with respect to brown pelicans and sea turtles;
- whether the Navy is required under the National Historic Preservation Act to conduct further surveys to locate archeological sites;
- whether Puerto Rico has standing to sue under the Rivers and Harbors Act of 1899;
- whether the Navy violated the Federal Water Pollution Control Act by failing to comply with Commonwealth water pollution acts and regulations;
- whether the Navy is violating the Federal Noise Control Act of 1972;
- whether the Navy has unreasonably restricted the fishing industry of Vieques and whether restriction of the waters of Vieques violates Federal statutes; and
- whether the district judge erred in refusing to grant injunctive relief against Navy operations.

The U.S. Court of Appeals for the First Circuit heard oral argument on the appeal of the Commonwealth of Puerto Rico on September 11, 1980. On September 12, 1980, on its own motion, the court requested that the parties brief the question of whether the Governor of Puerto Rico had a right of action to enforce the Military Construction Authorization Acts and various Department of Defense memorandums which the plaintiffs allege prohibited the transfer of Navy training activities from Culebra to Vieques. Briefs in that issue were submitted to the

court by both sides on September 22, 1980. The court now has the case under consideration and a decision is not expected until the spring of 1981.

CONCLUDING VIEWS OF THE PANEL

MR. DELLUMS

Testimony obtained during the course of the panel's hearings reflected many of the concerns associated with the Culebra issue and the litigation brought by the Commonwealth of Puerto Rico. A number of witnesses emphasized opposition to the Navy's presence, level of training activity and concern with what they viewed as the adverse effects of the Navy's use of the island as a training complex.

The Mayor of Vieques and other political leaders called for the immediate cessation of naval activities and withdrawal of naval presence from the island. The Governor of Puerto Rico recommended a reduction of training activities on Vieques to the same level that existed before operations on Culebra were terminated. Other witnesses supported the continued presence of the Navy.

The Navy has justified its use of Vieques on the basis that the island is a unique asset that permits the military to conduct its coordinated and simultaneous training which is not available to the Atlantic Fleet elsewhere. This type of training, according to the Navy, is essential for fleet readiness. Unless coordinated training is conducted the fleet will not be prepared adequately for actual combat operations and wartime conditions. At present, according to the Navy, combined operations are conducted on Vieques approximately 136 days annually or 37 percent of the time; however, residents suggested that the use of the island for training operations was more extensive.

Interwoven into the central issue is the question of the impact of the Navy's activities on the people and the island. Island fishermen in particular have protested against the Navy, claiming that the fishing industry has suffered. The Navy disputes their claim. Other witnesses claimed that island residents were suffering hearing losses as a result of the bombing and gunfire activities.

As noted previously, the District Court ordered the filing of an environmental impact statement. EPA in its review of the DEIS prepared by the Navy identified a number of requirements for the Navy to follow in the preparation and submission of the FEIS. The FEIS has been submitted and is under review by EPA. As submitted, the statement declares that the impacts are not of such significance as to require the Navy to cease operations and relocate.

The Federal District Court has determined also that the Navy is in violation of the Clean Water Act for not obtaining a discharge permit. Under the law, the Commonwealth of Puerto Rico is required to act on the permit. If commonwealth permission is not granted, the matter may then be referred to the President for final disposition since a national security activity is involved. If a permit is not granted, the Navy would be in violation of the Act and conceivably could be required to terminate activities on Vieques.

The question of sound pollution was raised during the hearings. The panel learned that the Navy determined when bombing and gunnery training activities would be conducted. The decision to conduct such

training related to atmospheric conditions which affected noise levels. Concern was expressed about the location of the sound monitors and nighttime bombing. The Navy has not consulted with the EPA on the appropriateness of the noise levels used or the location of the sensors.

Land utilization is another aspect of the controversy. A number of witnesses suggested that the Navy's control of the land effectively choked off and prevented community and economic development of the island and realization of its tourism potential. Also, it was suggested that present land utilization was resulting in overgrazing, which could severely affect cattle operations. In particular, witnesses questioned the need to hold land for ammunition storage. It was suggested that the ammunition storage activity could be relocated. I recommend that it be relocated.

As a result of these issues, relations between the Navy and the people of the island have deteriorated. The Navy has attempted to institute a community relations program. Unfortunately, it has been viewed as an attempt to manipulate and control the local citizenry. Instead of fostering a spirit of good will the program has generated distrust and suspicion, resulting in unfounded charges that the Navy engaged in attempts to influence the outcome of local elections.

Findings

The story of Vieques has not been finalized. It is appropriate, however, to offer the following conclusions in order to put the matter into perspective.

(1) It is recognized that national security requirements dictate the need for an adequate naval training complex. A coordinated training operation is essential to fleet readiness and preparedness; however, this statement is not to be construed that I believe that the Vieques training programs, as presently configured, represent the best situation.

(2) The Navy should locate an alternative site. In the interim, the Navy should make every effort to work closely with the Commonwealth of Puerto Rico in implementing programs to alleviate the impact of its activities and in particular explore turning over additional land to the island for civilian use.

(3) I am not impressed with the Navy's handling of community relations with the island. Insensitivity has been the hallmark of the Navy's approach, resulting in legal action and protests.

(4) There has been a buildup of activity of Vieques. At a minimum, naval activities have increased between 10 and 15 percent since Culebra operations were terminated. Insofar as can be determined, there has been no effort on the part of the Navy to cooperate with the Commonwealth in discussing this buildup. Rather the Navy has used a very narrow legalistic approach by stipulating that since operations were conducted on Vieques on Navy-owned land, it was not necessary to confer or cooperate with the Government of Puerto Rico in the buildup or transfer of activities from Culebra to Vieques.

(5) The Navy should work closely with the Environmental Protection Agency on mitigating efforts to reduce the impact of its presence and, in particular, determine what steps, if any, might be taken to alleviate concerns about noise pollution. Efforts should be made, for example, to reduce the amount of training activities after 8 p.m.

(6) I am concerned about possible negative impact Navy presence could have on the island's ability to attract Federal support for community development programs. A careful review by the Navy and the commonwealth is recommended immediately.

(7) Several witnesses charged that the Navy had engaged in efforts to influence local elections. Appropriate Navy officials were placed under oath and their sworn testimony was to the effect that such efforts were not undertaken.

(8) I am concerned that a business as usual policy will be counter-productive. The United States and Puerto Rico have a unique relationship that requires trust, communication and cooperation. Vieques, however, is a political issue that for some, if not many, symbolizes third world concerns with their relationship with the industrialized nations of the world. I cannot emphasize too strongly the need for the Navy and the Defense Department to proceed now, without delay, to locate alternatives to Vieques and, in the interim, study and develop methods of alleviating as many of the more immediate concerns as possible. Otherwise, the Navy may further undermine its credibility and encourage exploitation of the controversy.

MR. CARR

I commend the members of the panel and staff for their diligence in pursuing the technically difficult and emotionally charged issue of the use of Vieques by the Navy. When the panel's timetable was repeatedly delayed I found it difficult to give the panel the attention that my participation deserved. For that I apologize to my colleagues.

Relative to the panel's report I am in agreement with Chairman Dellums' findings (1) and (2). I have no opinion concerning findings (3) through (8). Similarly, I have no position on the remarks of Mr. Dickinson except that I strongly disagree with his conclusion that the study of alternates and their acquisition is unnecessary.

Naval training facilities of all types are badly needed. Vieques-type facilities are essential. While some locations have advantages over others, I strongly believe that it is indefensible to state that Vieques is a one-of-a-kind indispensable training facility and that the search for alternatives is unnecessary and wasteful. Relative to the readiness of our naval forces I also think that it is diplomatically and militarily dangerous for congressional committee members to state that naval training of this type and sufficiency is dependent on one geographical location. Our Navy should not be either so dependent or unimaginative.

MR. EVANS

I agree in general with the report as submitted but with certain definite modifications. First, the importance of this training facility to the Navy cannot be overemphasized and must be given first priority. Nevertheless, I am not convinced that all possible alternative sites have been determined and eliminated. I believe that this search should continue. The main reason for this position is that despite the excellent provisions of the facility the fact remains that it is a small island which is inhabited by people who must therefore live and work in close proximity to the bombardment and other actions of the Navy, important as they are. Since any compromise between these two factors is

apt to be only partially satisfactory to either one, the ideal situation should be to seek every means of securing another facility.

Should that prove impossible, or at any rate in the meanwhile, the Navy should redouble its efforts to cultivate the cooperation of the community and the Government of Puerto Rico. This has obviously been an area that needs great attention. There are many activities and approaches with which it might be possible to have a rather difficult situation become more palatable and this should certainly be pursued.

MR. DICKINSON AND MR. DAVIS

We are able to associate ourselves with much of the panel's report. There are, however, certain specific items in the section of the report labeled "Concluding Views of the Panel" with which we are in disagreement. Hence, we find it necessary to record our views.

In the "Concluding Views" there is an indication that the Navy justifies its use of Vieques on the basis that the island is a unique asset that provides the Navy a location for the accomplishment of training which can be accomplished nowhere else in the Atlantic area. We would point out that that conclusion is not simply a Navy justification, but that it is also a finding which was made by the U.S. District Court for the District of Puerto Rico. It is worth repeating a portion of the opinion of the Court:

The island of Vieques is the only place presently available wherein the Atlantic Fleet can conduct the full range of exercises under conditions similar to simulated combat. It is the only place which possesses the potential or existing capability to conduct combined exercises involving air-to-ground ordnances delivery, Marine amphibious assaults, anti-submarine warfare, surface-to-air missiles, close support bombardment, and electronic warfare; in short everything that a battle group would undertake to secure our sea lanes from interdiction by hostile forces. Furthermore, being that the ultimate mission in combat is the delivery of live ordnance to the enemy, it is an essential element of training that the personnel be fully exposed to its use, both psychologically and in terms of actual skills. Vieques is the only location presently available wherein this training can be conducted within permissible peacetime parameters.

We would further point out that the Court arrived at the above-quoted opinion after a hearing of several months duration.

It is indicated that relations between the Navy and the people of Vieques have deteriorated. Our view is that such a conclusion is unfair to a large segment of the population on Vieques. In our view, the facts are quite to the contrary; the record supports the conclusion that a relatively small minority of the citizens of Vieques are "anti-Navy" in their orientation. The record further supports the conclusion that many of the problems between the civilian population on Vieques and the Navy are a result of agitators who come to Vieques from Puerto Rico and from other islands in the Caribbean.

As we have indicated earlier, it is our judgment that the vast majority of the citizens on Vieques are not "anti-Navy" and, indeed,

we think there is considerable evidence that a significant portion of the population is, in fact, "pro-Navy." We conclude that the Navy has made and continues to make a genuine effort with community relations on the island. We attribute the discord which has existed on the island not to "Navy insensitivity" but to outside agitators.

The finding that the Navy has used a very narrow legalistic approach with respect to its rights on Vieques is something with which we disagree. We think the record of the panel's hearings supports the conclusion—as does the opinion of the U.S. District Court for Puerto Rico in *Barcelo v. Brown*, 478 F. Supp. 646 (D.C. P.R., 19-79)—that the current Navy activities on Vieques are consistent with both the letter and the spirit of the various congressional enactments dealing with weapons training in the Roosevelt Roads/Culebra/Vieques area.

Also, we want to record our strong disagreement with the final conclusion that there is a need for the Navy and Defense Department to proceed now, without delay, with studying and locating alternatives to Vieques. This committee has addressed the question of alternative training sites in the Puerto Rican area for over a decade. Repeated studies have been conducted, and it has been amply demonstrated that the number of alternative sites are few and that each of these is confronted by major technological, operational and international political obstacles. During the development of the Environmental Impact Statement on operations at Vieques, the Navy specifically addressed the question of alternative sites to Vieques. The conclusion was reached that none is available. A further study of an already over-studied area will not, in our view, provide additional useful information.

Lastly, it is recognized that national security requirements dictate the need for an adequate Navy training complex at Vieques. We fully support that conclusion. We disagree, however, with the finding that the Navy should continue vigorously to study the possibility of and to locate an alternative site for Vieques. The Commonwealth of Puerto Rico is still under an obligation to propose an alternative site for Culebra; it is fully recognized that finding such an alternate site has been vigorously pursued for several years both within and outside the formal meetings which have occurred between representatives of the commonwealth and the Navy. To put it simply, if Puerto Rico cannot meet the agreed conditions for the United States' giving up the use of Culebra after this many years, there is no need to discuss an alternate to Vieques.

The first part of the document is a letter from the Secretary of the State Department to the Secretary of the War Department. The letter is dated 1864 and is addressed to the Secretary of the War Department. The letter discusses the appointment of a new Secretary of the War Department and the resignation of the previous Secretary. The letter is signed by the Secretary of the State Department.

The second part of the document is a letter from the Secretary of the War Department to the Secretary of the State Department. The letter is dated 1864 and is addressed to the Secretary of the State Department. The letter discusses the appointment of a new Secretary of the War Department and the resignation of the previous Secretary. The letter is signed by the Secretary of the War Department.

The third part of the document is a letter from the Secretary of the War Department to the Secretary of the State Department. The letter is dated 1864 and is addressed to the Secretary of the State Department. The letter discusses the appointment of a new Secretary of the War Department and the resignation of the previous Secretary. The letter is signed by the Secretary of the War Department.

The fourth part of the document is a letter from the Secretary of the War Department to the Secretary of the State Department. The letter is dated 1864 and is addressed to the Secretary of the State Department. The letter discusses the appointment of a new Secretary of the War Department and the resignation of the previous Secretary. The letter is signed by the Secretary of the War Department.

The fifth part of the document is a letter from the Secretary of the War Department to the Secretary of the State Department. The letter is dated 1864 and is addressed to the Secretary of the State Department. The letter discusses the appointment of a new Secretary of the War Department and the resignation of the previous Secretary. The letter is signed by the Secretary of the War Department.

