

Judge: Governor must OK Guard unit closure

Associated Press

PHILADELPHIA — In a blow to the Pentagon's plan to shake up National Guard units, a judge ruled today that the Defense Department does not have the authority to dissolve a Pennsylvania Air National Guard division without the governor's approval.

U.S. District Judge John R. Padova said Defense Secretary Donald Rumsfeld should have gotten consent from Gov. Ed Rendell before moving to deactivate the 111th Fighter Wing of the Pennsylvania Air National Guard. The judge said the Pentagon's recommendation to close the unit is "null and void."

Several other states have filed, or are considering, similar lawsuits.

The ruling came as a base closing commission wrapped up its work in deciding the fate of military bases around the nation. The commission was expected to vote today on the recommendation to close the Willow Grove station in Pennsylvania. Willow Grove is home to the fighter wing and Air Force and Navy reserve units, along with other military units.

The lawsuit didn't challenge the Pentagon's authority to close Willow Grove, only whether the federal government could deactivate the 111th Fighter Wing based there.

The Pentagon had recommended that the guard unit, with more than 1,000 jobs, be deactivated and that its aircraft either be retired or relocated to other Air National Guard bases.

The judge wrote that the loss of the guard unit would deprive the state of nearly 25 percent of its total Air Guard strength along with eliminating a unit vital to homeland security in the state.

Justice Department lawyers had argued that the Base Realignment and Closure Act supersedes the federal law requiring gubernatorial consent.

A spokesman for Rendell said he was still reading the opinion and didn't have an immediate comment.

Rendell sent a letter to the Pentagon on May 26 advising Rumsfeld that he did not consent to the deactivation or relocation of the fighter wing.

The governor commands the unit's activities 90 percent of the time, as it responds to floods, errant planes and other emergencies, Rendell said. Federal officials command the Guard only when it is activated for missions such as the war in Iraq.