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Vieques, Puerto Rico Naval Training Range: Background and Issues for Congress

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Summary

This report discusses the controversy leading up to the closure of the U.S. naval training range on the Puerto Rican island of Vieques, Congress' legislation directing the closure, and the potential impact of the closure on military training and readiness. **For a discussion of post-closure environmental cleanup issues at Vieques, see CRS Report RL32533.**[1] On April 30, 2003, the Department of the Navy (DON) closed its training range on Vieques. On March 31, 2004, as directed by Section 8132 of the FY2004 defense appropriations act (P.L. 108-87/H.R. 2658), the Navy closed the supporting Roosevelt Roads naval station on mainland Puerto Rico. This CRS report will be updated as events warrant.

Background information

The Vieques Training Range. The Commonwealth of Puerto Rico is a U.S. territory in the Caribbean whose people are U.S. citizens. Vieques (pronounced vee-EH-kez) is a small Puerto Rican island a few miles east of mainland Puerto Rico. The Department of the Navy (DON), which includes the Navy and Marine Corps, purchased the western and eastern ends of the island between 1941 and 1950; the two DON-owned parcels totaled about 22,000 acres, or about two-thirds of the island. Almost all of the 8,000-acre western parcel, which was used primarily as a naval ammunition depot, was returned by DON to the Municipality of Vieques on May 1, 2001. The remaining DON-owned 14,000-acre eastern parcel was used by U.S. naval and other military forces since the early 1940s for training exercises involving ship-to-shore gunfire, air-to-ground bombing by naval aircraft, Marine amphibious landings, or some combination. The parcel included a roughly 11,000-acre Eastern Maneuver Area for Marine Corps ground exercises and a roughly 900-acre Live Impact Area (LIA) designed for targeting by live ordnance. The LIA was at the eastern tip of the island, several miles from the civilian-populated center section of the island, which has about 9,300 residents.

[1] CRS Report RL32533, *Vieques and Culebra Islands: An Analysis of Environmental Cleanup Issues*, by David M. Bearden and Linda G. Luther.

Until April 1999, the Navy used the Vieques training range about 180 days per year. Of these, about 120 days were for integrated (i.e., combined land-sea-air) live-fire exercises (i.e., exercises with explosive ammunition) by U.S. Atlantic Fleet aircraft carrier battle groups and amphibious ready groups preparing to deploy overseas on regular six-month-long deployments to the Mediterranean Sea or Persian Gulf. Until 2001, DON officials argued adamantly that there was no site other than Vieques where Atlantic Fleet naval forces could conduct integrated live-fire training operations, and that such training operations are critical to fully preparing U.S. naval forces for deployment.

Puerto Rican Discontent and Opposition. U.S. military activities in Puerto Rico had been a source of discontent among Puerto Ricans for several decades. Puerto Rican opposition to DON activities on Vieques increased after 1975, when DON withdrew from Culebra, another small Puerto Rican island near Vieques where DON had conducted some of its live-fire training operations. After withdrawing from Culebra as a consequence of strong Puerto Rican opposition to DON's use of that island, DON consolidated its live-fire training operations at Vieques. Puerto Rican dissatisfaction regarding military training activities on Vieques was driven by several issues: (1) lost potential for economic development due to lack of access to most of the island's land, interruptions to local fishing operations, and the effect of DON's activities on reducing the potential for developing the island as a tourist destination; (2) the inadequacy of DON economic development efforts intended to compensate the Vieques community for this economic loss; (3) damage to the island's environment, ecology, natural resources, historic resources, and archaeological sites caused by DON training activities; (4) concern that the incidence of cancer or other diseases might be increased by pollutants released into the local environment by DON training operations; (5) noise, especially from nearby ship-to-shore gunfire; (6) safety (the risk of an off-range accident), and (7) perceived DON insensitivity in conducting its relations with the Vieques community.

April 19, 1999 Bombing Accident and Subsequent Impasse. On April 19, 1999, the pilot of a Marine Corps F-18 on a training mission mistakenly identified an observation post located just to the west of the LIA (but still well within the overall range perimeter) as its intended target. The two 500-pound bombs dropped by the plane struck the post, killing David Sanes Rodriguez, a Puerto Rican civilian employed as a security guard, and injuring four others. Following the accident, DON temporarily suspended its use of the range. The accident galvanized Puerto Rican opposition to DON's activities on the island. Puerto Rican political leaders and overwhelming segments of Puerto Rican public opinion soon declared their firm opposition to any further military training operations on the island and called for DON to withdraw from the island immediately and return the land to Puerto Rico. At the same time, dozens of demonstrators entered the range (most of which was off-limits to the civilian population) and established several protest camps, preventing DON from easily resuming training activities there.

Rush Panel. On June 9, 1999, President Clinton asked Secretary of Defense William Cohen to establish a special panel to study the situation. The 4-member panel was chaired by Frank Rush, who was the acting Assistant Secretary of Defense for force management policy. The Rush panel, as it was called, released its report on October 19, 1999. The report recommended, among other things, that DON

> should immediately conduct a priority assessment of the training requirements at Vieques with the objective of ceasing all training activities at Vieques within five

years. The Navy should take necessary programming actions to ensure that adequate resources are available to facilitate the identification and preparation of alternative locations, to institute necessary changes in training methods, and to provide for restoration and transfer to Puerto Rico of the Eastern Maneuver Area.

Clinton-Rossello Plan. On January 31, 2000, President Clinton announced an agreement with then-Governor of Puerto Rico Pedro Rossello on a plan for resolving the dispute over Vieques. The plan called for holding a referendum of the registered voters of Vieques to determine the future of DON activities on the island. The referendum, which was later scheduled for November 6, 2001, and subsequently rescheduled for January 2002, would present two choices. One would be for DON to cease training activities no later than May 1, 2003; the other would be for DON to continue training, including live-fire training, beyond that date. If voters choose the second option, OMB would submit a $50-million funding request to Congress to finance further infrastructure-improvement and housing projects on the western end of Vieques. Under the plan, DON would be permitted prior to the referendum to conduct exercises on the range for no more than 90 days a year using only non-explosive ordnance, and the Office of Management and Budget (OMB) would submit a $40-million funding request to Congress to finance a series of community assistance projects on Vieques. The plan also called for transferring DON lands back to civilian use.

Removal of Protestors and Resumption of Training. On May 4, 2000, more than 300 federal agents moved onto the training range and peacefully removed 216 demonstrators. On May 8, 2000, DON resumed training operations on the range using non-explosive ordnance. Hundreds demonstrators attempting to reenter the range on various dates after May 4, 2000 were detained and removed by U.S. forces.

Congressional Activity and Legislation in 1999 and 2000. Hearings devoted to the situation on Vieques were held by the House and Senate Armed Services Committees on September 22, 1999, and by the Senate Armed Services Committee on October 19, 1999 (at which the Rush panel report was released). Several bills were introduced in September and October 1999 that proposed various measures for addressing the situation. Following the announcement of the Clinton-Rossello plan, Congress in 2000 debated the merits of the plan and acted on the administration's request for $40 million in community assistance funding and its proposed land-transfer legislation.

Congress appropriated the $40 million in community assistance funding as part of P.L. 106-246 (H.R. 4425) of July 13, 2000, the combined FY2001 military construction appropriation and FY2000 supplemental appropriations bill. The FY2000 supplemental appropriations portion of the bill (Division B) contains a provision under the Operation and Maintenance, Defense-Wide section that provides $40 million to Vieques for conducting a referendum and for various community and economic assistance projects.

Congress authorized the $40 million, provided land-transfer legislation (with terms modified from those proposed under the Clinton-Rossello plan), and approved other implementing legislation, as Title XV (Sections 1501-1508) of P.L. 106-398 (H.R. 4205) of October 30, 2000, the FY2001 defense authorization bill. (See pages 365-373 and 879-881 of H.Rept. 106-945 of October 6, 2000, the conference report on H.R. 4205.) Section 1502 provided for the May 1, 2001 transfer of the ammunition depot on the western end of the island.

Position of Governor Calderon. On November 7, 2000, Puerto Rico elected a new Governor, Sila Maria Calderon, who took office on January 2, 2001. Calderon did not support the Clinton-Rossello plan and pledged to take steps that would appear to break the accord.

Final Clinton Administration Actions. The Clinton Administration warned Governor Calderon that if Puerto Rico did not fulfill its obligations under the plan, DON would no longer be obliged to abide by the results of the November 6, 2001 referendum. On January 15 and 19, 2001, President Clinton issued two directives concerning Vieques. The first directed the Department of Health and Human Services to examine a new study showing that residents of Vieques suffer from a high incidence of vibroacoustic disease, an ailment affecting the heart and other internal organs. The second directed DoD to find a long-term alternative to live-fire training on Vieques, on the grounds that voters were likely to vote in the November 2001 referendum to permanently end training operations.

Initial Bush Administration Actions and Puerto Rican Response. The Bush Administration initially supported the Clinton-Rossello plan and held private discussions with Governor Calderon's office. On March 1, 2000, the Bush Administration canceled training operations for an aircraft carrier battle group that were scheduled to take place at Vieques later that month. On April 11, 2001, the Navy notified the Puerto Rican government of its intention to resume training operations at Vieques using inert ordnance (as required by the Clinton-Rossello agreement) starting April 27, 2001.

In response, Governor Calderon promised to introduce legislation to tighten noise restrictions in a way that would effectively prohibit the Navy from engaging in ship-to-shore gunfire. She also accused the Defense Department of violating an understanding to suspend training operations on Vieques pending the outcome of independent reviews of studies on the health-effects of the training. Calderon introduced the bill and the Puerto Rican Legislature passed it on April 23. Governor Calderon signed the bill into law, and on April 24, Puerto Rico filed a federal lawsuit to halt the Navy's exercise, arguing that the Navy's training activities would threaten public health and violate both the new noise-restriction law and the 1972 federal Noise Control Act. On January 2, 2002, the court dismissed the lawsuit on jurisdictional grounds, stating that Congress never intended "to create a private action for violations by a federal entity of the state and local environmental noise requirements."

New Bush Administration Plan and Reaction. On June 14, 2001, the Bush Administration announced that it had decided to end military training operations at Vieques by May 1, 2003. Under the Administration's plan, DON began planning for withdrawal from the island by that date, Secretary of Defense Donald Rumsfeld was to appoint a panel of retired military officers and other experts to seek effective training alternatives to Vieques, and the Defense Department was to seek relief from the requirement to hold the November 2001 referendum (which was rescheduled for January 2002) by asking Congress to pass legislation cancelling sections 1503, 1504 and 1505(b) of P.L. 106-398. After May 1, 2003, the DON-owned land on the eastern end of the island would be turned over to the Interior Department.

Supporters of the military immediately criticized the Bush Administration's new plan on the grounds that it could lead to reduced readiness of U.S. naval forces and complicate the U.S. ability to maintain access to overseas training ranges in places such as Okinawa

and South Korea. Some opponents of continued military training operations on the island welcomed the plan because it established with finality that training operations would end by May 1, 2003, but other opponents of the training operations criticized the plan on the grounds that it didn't go far enough — that training operations should end immediately rather than on May 1, 2003.

Governor Calderon welcomed the plan as far as it went but stated that she still wanted training operations to end immediately. She proceeded with her plan to hold a Puerto Rico-sponsored non-binding referendum on July 29, 2001 that gave voters on the island an opportunity to vote in favor of an immediate cessation of training operations — an option that would not be available at the separate January 2002 referendum to be held under the Clinton-Rossello plan. In the July 29 referendum, which drew 80.6 percent of the island's 5,893 registered voters, about 68 percent voted in favor of immediate cessation of training operations, about 30 percent voted to permit operations to continue indefinitely, and about 2 percent voted for operations to cease by May 1, 2003.

On January 7, 2002, the Secretary of the Navy denied a November 2001 request from the Chief of Naval Operations (CNO) and Commandant of the Marine Corps for a Navy battle group led by the carrier John F. Kennedy to train at Vieques. Subsequent Navy battle groups, however, were permitted to train at Vieques.

Legislation in 2001 and 2002. The FY2002 defense authorization act (P.L. 107-107; S. 1438) contains a provision (Section 1049) that (1) canceled the requirement for holding the January 2002 referendum; (2) authorized the Secretary of the Navy to close the Vieques range, and terminate all Navy and Marine Corps operations at the Roosevelt Roads naval station that are related exclusively to use of the range, if the Secretary certifies that "one or more alternative training facilities exist that, individually or collectively, provide an equivalent or superior level of training" and are immediately available upon cessation of training on Vieques; (3) required the Secretary, in making this determination, to take into account the written views and recommendations of the Chief of Naval Operations and the Commandant of the Marine Corps; and (4) transferred the range lands to the Department of the Interior if the range is closed. In its report (S.Rept. 107-151 of May 15, 2002) on the FY2003 defense authorization bill (S. 2514), the Senate Armed Services Committee

> directs the Secretary of the Navy to provide a report to the congressional defense committees on the plans for joint task force, combined-arms training of carrier battle groups and amphibious ready groups during fiscal year 2003. This report should include a description of the locations where that training will be conducted, the use of live munitions during that training, and a description of the naval and military capabilities to be exercised during training. The report should also describe the Secretary's progress regarding the identification of an alternate location or locations for the training range at Vieques. The committee directs the Secretary to provide this report no later than March 1, 2003. The committee understands that, until such time as a decision is made by the Secretary of the Navy in accordance with Section 1049 of [P.L. 107-107], Navy and Marine Corps training will continue at Vieques as it is currently. (page 311)

Closures of Vieques Range and Roosevelt Roads. DON conducted its final training operations at Vieques in February 2003. On April 30, 2003, DON closed the range and transferred the land to the Department of the Interior, which will use the land

as a wildlife refuge, except the Live Impact Area, which will be designated as a wilderness area. The Secretary of the Navy certified to Congress on January 10, 2003, that DON would cease training operations on the island by that date, in accordance with Section 1049 of P.L. 107-107. In making the certification, DoD stated that the Navy had identified alternative training sites that collectively will provide equivalent or superior training to the training options provided at Vieques. On March 31, 2004, as directed by Section 8132 of the FY2004 defense appropriations act (P.L. 108-87/H.R. 2658), the Navy closed the supporting Roosevelt Roads naval station on mainland Puerto Rico.

Potential Issues for Congress

Potential issues for Congress include the following: Are the Navy's alternative training sites and methods collectively providing an equivalent or superior level of training to that provided at Vieques prior to April 1999? How might the decision to close Vieques affect the U.S. ability to maintain access to overseas training ranges where there is local opposition to U.S. operations, such as Okinawa or South Korea? Does the decision to close Vieques set a precedent for managing disputes over ranges? Will it encourage other local populations to step up their opposition to U.S. training activities? What economic impact will the closure of the Roosevelt Roads naval station have on the surrounding community?

Legislative Activity

FY2004 Defense Authorization Bill. In its report (S.Rept. 108-46 of May 13, 2003) on the FY2004 defense authorization bill (S. 1050), the Senate Armed Services Committee said it strongly supported the Navy's plan to reduce its presence at Roosevelt Roads (page 300) and directed the Navy to report to Congress on the status of cleanup-related actions for Vieques (page 307). The report stated that

> this committee intends to remain focused on the progress of cleanup and future use of the former Navy lands on Vieques.... The committee further expects the Secretary of the Navy to expeditiously complete all environmental cleanup actions on Vieques Island, based on available funds, overall priorities, and applicable laws. (Page 307)

FY2004 Defense Appropriations Bill. Section 8132 of the FY2004 defense appropriations act (H.R. 2658/P.L. 108-87 of September 30, 2003; H.Rept. 108-283 of September 24, 2003, pages 50 and 344-345) directed the Navy to close Roosevelt Roads naval station no later than six months after enactment of the bill, and to dispose of the property in accordance with the procedures and authorities of the Base Realignment and Closure (BRAC) Act of 1990 (10 USC 2687). The House-passed version of the bill contained a somewhat different provision (Section 8125) added by floor amendment.

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