

Taylor, Bob (Thune)

From: Taylor, Bob (Thune)
Sent: Monday, August 15, 2005 12:21 PM
To: 'Beauchamp, Arthur, CIV, WSO-BRAC'
Subject: DeCuir Long stmt & Plaintiff's Notice of Appeal
Attachments: DeCuir1_d.pdf; NOA asfiled.pdf

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

DAVIS MOUNTAINS TRANS-PECOS
HERITAGE ASSOCIATION,

Plaintiffs-Appellants,

v.

UNITED STATES AIR FORCE,
et. al.

Defendants-Appellees.

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Case No. 03-10506

**ADDITIONAL DECLARATION
OF MAJOR GENERAL
KENNETH M. DECUIR**

Pursuant to 28 U.S.C. § 1746, I declare as follows:

1. I am Major General Kenneth M. DeCuir. Since March of 2004, I have served as the Director of Air and Space Operations for the Air Combat Command (ACC) at Langley Air Force Base, Virginia. Before that I served in various flying and staff positions within the United States Air Force (USAF) over the past 30 years. I make this declaration based on my own personal knowledge and experience, as well as information made available to me during the course of my commissioned service with the Air Force.
2. I am familiar with the types of airspace used for training aviators throughout the Air Combat Command. I am familiar with the airspace and training assets associated with the Realistic Bomber Training Initiative (RBTI), which includes Instrument Route 178

(IR-178) and the Lancer Military Operations Area (MOA). I understand the strategies and tactics employed by B-1 and B-52 aircrews. I am familiar with the litigation, *Davis Mountains v. USAF*. It is my personal and professional opinion that losing the ability to use IR-178 and the Lancer MOA as currently configured will cause grievous and irreparable harm to Air Force training and the ability of the Air Force to meet its national defense objectives. |||

3. Should this Court grant our petition for clarification, the Air Force can make the following temporary operational changes to the RBTI between the time the Court grants the petition and until the Air Force completes the Record of Decision for the Supplemental Environmental Impact Statement (SEIS) and the Federal Aviation Administration acts upon it:

a. Aircraft will fly no lower than 500 feet Above Ground Level (500' AGL) or the published minimum altitudes on IR-178 as set forth in the AP/1B, whichever is higher, while engaged in normal training operations on IR-178.

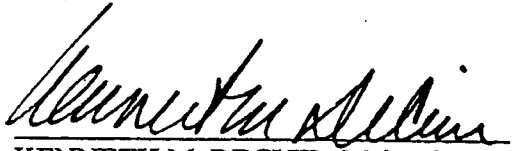
b. Aircraft will not fly lower than 12,000 feet Mean Sea Level (12,000' MSL) during normal training operations in the Lancer Military Operations Area.

4. These voluntary operational changes are designed to minimize the potential for impacts on civil aviation and ground structures, which the Court determined was inadequately analyzed. The changes to the bomber training program, which would be in effect while the Air Force completes the SEIS and the FAA takes action accordingly, do |||

not, in my opinion, allow aircrews to fully meet necessary realistic training objectives.

However, should the Court allow these temporary measures, our aircrews will adhere to them in the interim to preserve the opportunity to continue training as realistically as possible.

I declare under penalty of perjury that the foregoing is true and correct. Executed
on 5 JANUARY, 2005.


KENNETH M. DECUIR, Major General
Air Combat Command
Director of Air and Space Operations
Langley Air Force Base, VA 23665-2789

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION**

DAVIS MOUNTAINS TRANS-PECOS §
HERITAGE ASSOCIATION; DALE and §
SUSAN TOONE; TIM and REXANN §
LEARY; EARL and SYLVIA BAKER; §
MARK and ANN DAUGHERTY; DICK §
R. HOLLAND; J. P. BRYAN; §
JACKSON B. "BEN" LOVE, JR.; and §
KAARE J. REMME, §

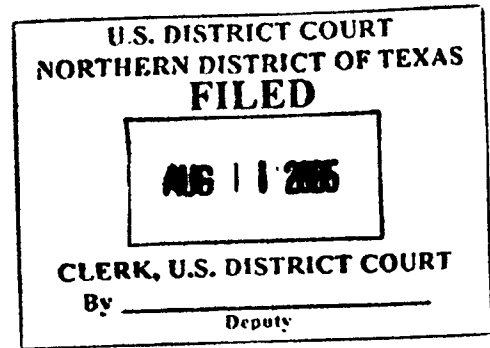
Plaintiffs, §

v. §

UNITED STATES AIR FORCE; DR. §
JAMES G. ROCHE, Secretary, United §
States Air Force; UNITED STATES §
DEPARTMENT OF DEFENSE; and §
DONALD H. RUMSFELD, Secretary, §
Department of Defense, §

Defendants. §

CIVIL ACTION NO. 5:01-CV-289-C



NOTICE OF APPEAL

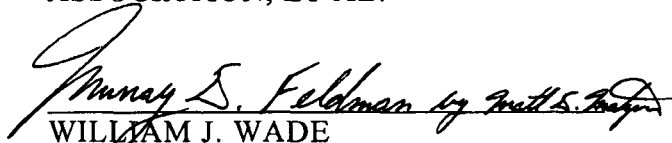
Notice is hereby given that all Plaintiffs in the above-named case hereby appeal to the United States Court of Appeals for the Fifth Circuit from the Order entered in this action on June 29, 2005, concerning the interim operating conditions for the Realistic Bomber Training Initiative pending completion of the supplemental environmental impact statement and issuance of agency decisions.

DATED: August 11, 2005

Respectfully submitted,

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ATTORNEYS AND LOCAL COUNSEL FOR
PLAINTIFFS DAVIS MOUNTAINS TRANS-
PECOS HERITAGE ASSOCIATION, ET AL.

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of August 2005, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

John R. Parker, Esq.
Assistant United States Attorney
United States Department of Justice
1100 Commerce Street, 3rd Floor, Suite 300
Dallas, TX 75242

- U.S. Mail
- Hand Delivery
- Overnight Delivery
- Telecopy (Fax)

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