

**Taylor, Bob (Thune)**

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**From:** Taylor, Bob (Thune)  
**Sent:** Wednesday, August 10, 2005 11:03 AM  
**To:** 'Beauchamp, Arthur, CIV, WSO-BRAC'  
**Subject:** Bond Letter  
**Follow Up Flag:** Follow up  
**Flag Status:** Red  
**Attachments:** Bond\_ltr.pdf

Art, I don't believe I sent you this yet. This is a letter from one of the two plaintiffs groups lead attorney sent to ACC in the RBTI litigation matter. You will note they are essentially laying down notice that they consider the possible addition of B-1s to Dyess from Ellsworth to be "more than an incremental increase" and that they expect the Air Force to factor that increase into the supplemental EIS unless "the new contingent of bombers will never use the RBTI." Of course, including this consideration into the SEIS that would delay its completion even further. They are also laying down a not too subtle hint that they will not accept an EA or "short" EIS added later as an addendum to account for the addition of B-1s, which would prompt yet another legal challenge on their part.

On a side note, when we met with Fred Pease and his AF counsel, Steven Rogers, on Monday, Rogers said that is exactly what the AF intended to do – just prepare a "short EIS" at a later date. I handed Pease the letter at the conclusion of the meeting, which he had not seen. In other words, you have two trains headed toward each other on the same track, and this supports our assertions that this litigation will go on for sometime. The additional B-1s only add to the legal quagmire.

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August 5, 2005

Ms. Cheryl Parker  
HQ ACC/CEVP  
129 Andrews Street, Suite 102  
Langley AFB, VA 23665-2769

Re: Draft SEIS for the Realist Bomber Training Initiative

Dear Ms. Parker:

You are no doubt aware that I represent the plaintiffs in *Buster Welch, et al. v. USAF, et al.* challenging the adequacy of the EIS and ROD prepared for the Realistic Bomber Training Initiative (RBTI). Because of the decision of the United States Court of Appeals for the Fifth Circuit, the Air Force is preparing a supplemental EIS (SEIS) on the RBTI.

I wrote your predecessor, Brenda Cook, that as reported in the Federal Register Notice of the preparation of a SEIS, the scope of your consideration of the evaluation of wake vortex impact only on buildings and structures was too narrow. I invited Brenda Cook to reevaluate the Court's decision, particularly the final order, to note that the scope of the wake vortex evaluation is not limited to buildings and structures. I indicated, and we expect, that the wake vortex reevaluation will consider the impact on among others, livestock operations, recreation, hunting, and direct overflights of humans.

I understand also that you intend to have scoping meetings in Alpine and Pecos, Texas. My clients, who live largely under the Lancer MOA and those parts of IR 178 entering the MOA, will have to travel hundreds of miles to attend the scoping meetings if limited to those two towns. I remind you that two of the original scoping meetings were held in Abilene and Snyder, proximate to the Lancer MOA. Because the Fifth Circuit's decision causes you to reevaluate the impact on civil and commercial aviation, my clients wish to have scoping meetings in Snyder and Lubbock. In the first scoping meetings Lubbock was ignored even though the greatest impact of the RBTI on commercial air traffic was to Lubbock International Airport. Several months ago, I informed Lt. Col. John Smith by email of our concerns that scoping meetings would only be held in towns under

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the southern part of IR-178. He said by telephone that he forwarded my message to you. This is a followup of our position on the scoping meetings.

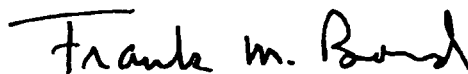
Finally, by review of the BRAC report we understand Ellsworth AFB, South Dakota is scheduled for closure, and the B-1 bombers from that base will be moved to Dyess AFB. Unless the new contingent of bombers will never use the RBTI airspace, this represents more than a mere incremental increase.

The new Ellsworth B-1s without doubt will substantially increase the cumulative impact, as that term is set out in the CEQ regulations and in substantial case law. Because the SEIS is now considering two issues and the inclusion of the Ellsworth B-1s is foreseeable, the Air Force should begin its consideration of the additional aircraft within the scope of the SEIS. Obviously, the delay to consider the new cumulative impact would not hamper current Air Force under the RBTI interim operating condition set by the District Court.

Because of the number of aircraft expected to be moved to Dyess AFB, we urge the Air Force to undertake a new environmental analysis considering the increased cumulative impact of the Ellsworth B-1 bombers. To do an environmental analysis (EA) or a "short" EIS simply is not enough. NEPA case law abhors a piecemeal approach.

I respectfully request that you notify us of any dates scheduled for scoping meetings in Snyder and Lubbock. Similarly, I ask you to notify us if the Air Force will not have scoping meetings near the Lancer MOA.

Sincerely yours,



FRANK M. BOND

FMB/cda

cc: HEPA Litigation Management Committee

Lt. Col. John Smith, USAF

Mr. Murray Feldman, Counsel for Davis Mountains Trans-Pecos Heritage Association