Taylor, Bob (Thune)

From: Taylor, Bob (Thune)
Sent: Wednesday, July 13, 2005 12:27 PM
To: 'Pease Fred SES SAF/IEB'
Subject: RE: Airspace slide

Follow Up Flag: Follow up
Flag Status: Red

Fred, thanks. Let us know as soon as possible what the AF position will be re the RBTI litigation issue we discussed. Obviously, we believe that to preserve the integrity of this process the right thing for the USAF to do would be to pick up the phone and call Frank Cirillo or Ken Small on the BRAC staff and acknowledge that the service made an error in calculating the range scores. Failing to consider the risk of future litigation and assuming the RBTI would be approved without limitation is a serious flaw in the analysis and should have, accordingly, been factored into the scoring.

The fact is, this RBTI should have been finally approved back in '98 or '99 but for the opposition the USAF faced there. Here it is 2005 and it's still not approved. The 5th Circuit has vacated the USAF and FAA ROD's that approved the RBTI (this is fact) essentially sending the Air Force back to first base and extending the approval process for at least another two years, with possibly an even more adverse decision at the end of the road. To score Dyess' ranges as if there was no issue with this litigation is simply inexcusable. The RBTI now operates under limitations that did not exist in the ROD (this is fact). The RBTI now operates subject to court approval (this is fact). If the B-1 squadron commander at Dyess wants his aircrews to conduct a little low level training at 300 feet (which was permitted under the original ROD) he can't do it (this is fact).

Litigation always has a risk - case in point: things may have looked pretty good back in 2003 when the district court ruled in favor of the air force. But in 2004, the plaintiffs score a victory on appeal and now you are back at square one drafting a SEIS and facing years of further dispute. And the additional B-1s coming to Dyess from Ellsworth haven't even entered the litigation soup yet. Anyone in the AF who thinks these plaintiffs are going to back-off when the B-1s are doubled in number, would have to be delusional. Having met them, I can tell you have a pit bull permanently attached to the USAF's posterior.

As far as Ellsworth is concerned, this omission is critical. We can not let this pass. As we discussed, we raised this yesterday with the BRAC. Since this error appears inadvertent, we do not want to embarrass the Air Force on this matter, especially if it can be resolved with a simple acknowledgement of error in the scoring. But I want to give you a heads-up that Senator Thune and the South Dakota delegation will likely make this an issue - a very public issue - in the next few days. Thanks again for the map.

P.S. Below are excerpts from Decuir's two sworn statements of January 5, 2005:

"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."……

"I understand the strategies and tactics employed by B-1 and B-52 aircrews. I am familiar with other training ranges the bombers in question would have to resort to using as a replacement for RBTI. I am familiar with the litigation, Davis Mountains vs. 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]R-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

-----Original Message-----
From: Pease Fred SES SAF/IEB [mailto:Fred.Pease@pentagon.af.mil]
Sent: Wednesday, July 13, 2005 8:55 AM
To: Taylor, Bob (Thune)
Subject: Airspace slide

Here is the one we used for calculations.
Fred

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