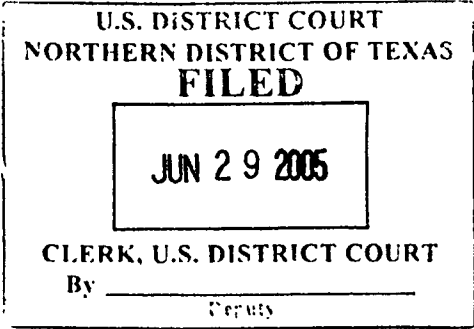


IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

DAVIS MOUNTAINS TRANS-PECOS)
HERITAGE ASSOCIATION, et al.,)
)
Plaintiffs,)
)
v.)
)
UNITED STATES AIR FORCE, et al.,)
)
Defendants.)



Civil Action No.
5:01-CV-289-C

ORDER

On this date the Court considered:

- (1) Plaintiffs' (DMTPHA) Motion and Brief for Hearing on Operating Conditions for RBTI Pending Completion of SEIS and Issuance of Agency Decisions on Remand, filed April 21, 2005, by Davis Mountains Trans-Pecos Heritage Association, *et al.* ("Plaintiffs");
- (2) Defendants' Opposition and Brief in Response to Plaintiffs' Motion for Post-remand Hearing, filed May 11, 2005, by the United States Air Force, *et al.* ("Defendants");
- (3) Plaintiffs' (DMTPHA) Brief Addressing Operating Conditions for RBTI Pending Completion of SEIS and Issuance of Agency Decisions on Remand, filed March 9, 2005;

- (4) Defendants' Corrected Brief on Remand, filed April 27, 2005;¹
- (5) Plaintiffs' (DMTPHA) Reply Brief Addressing Operating Conditions for RBTI Pending Completion of SEIS and Issuance of Agency Decisions on Remand, filed April 15, 2005; and
- (6) Defendants' Post-Remand Reply Brief, filed April 15, 2005.

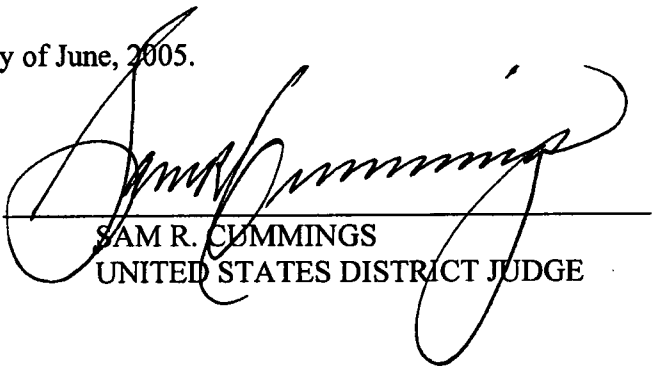
After considering all the relevant arguments and evidence, this Court finds as follows:

- (1) Plaintiffs' Motion for Hearing on Operating Conditions for RBTI Pending Completion of SEIS and Issuance of Agency Decisions on Remand is **DENIED** for the reason that adequate briefing on the issues has been completed by the parties;
- (2) The Fifth Circuit Court of Appeals Order issued January 31, 2005 On Petition for Rehearing allowed the operation of the RBTI to continue pending the outcome of the supplemental environmental impact statement. The Fifth Circuit directed this Court to set the conditions under which the RBTI may continue;
- (3) On January 12, 2005, the Air Force issued Flight Control Information File A05-01 ("FCIF A05-01"), titled "IR-178 and LANCER MOA Procedures," to Air Combat Command, Air National Guard, and Air Force Reserve Command units;

¹Defendants filed Defendants' Brief on Remand on March 10, 2005. Defendants filed their Corrected Brief on Remand because the declarations and exhibits filed in support of Defendants' post-remand brief did not conform to the appendix requirement of Local Rule 7.1(i).

- (4) FCIF A05-01 directs the following restrictions to be in effect until further notice: (a) Aircrews utilizing IR-178 will fly no lower than 500 ft. AGL, AP/1B altitude, or minimum altitudes set by the controlling airspace manager, whichever is higher, and (b) Aircrews utilizing the LANCER MOA will fly no lower than 12,000 MSL;
- (5) The RBTI may continue as previously conducted with the addition of the FCIF A05-01 restrictions, pending the completion of SEIS and issuance of agency decisions on remand;
- (6) The restrictions addressed by FCIF A05-01 adequately address the relevant issues until such time as the SEIS and agency decisions are completed; and
- (7) The RBTI is otherwise unchanged pending the SEIS and agency decisions on remand.

SO ORDERED this 29th day of June, 2005.



SAM R. CUMMINGS
UNITED STATES DISTRICT JUDGE