

**JOHN THUNE**  
SOUTH DAKOTA

COMMITTEES  
ARMED SERVICES  
ENVIRONMENT & PUBLIC WORKS  
SMALL BUSINESS  
VETERANS' AFFAIRS

**United States Senate**  
WASHINGTON, DC 20510

August 16, 2005

The Honorable Anthony J. Principi  
Chairman  
Base Realignment and Closure Commission  
2521 Clark Street, Suite 600  
Arlington, VA 22202

Dear Chairman Principi:

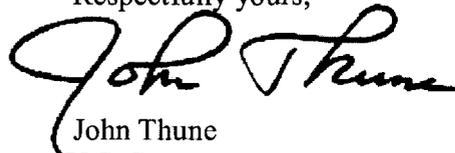
In my letter of August 9, 2005, I raised a serious concern regarding the Air Force's incorrect responses to commission questions about the five years of continuous litigation that has already resulted in a negative impact on current B-1 training conducted from Dyess AFB, and that future litigation could threaten to further constrain or eliminate access to that base's primary training area. I raised this issue because it represents a very current and visible example of just one reason why the consolidation of all 67 B-1s at Dyess will result in additional cost, reduced operational readiness and constrained training quality and availability. The Air Force, on the other hand, has attempted to down-play the impact of this litigation, even implying to the commission that the court imposed altitude limitation (500 ft in IR-178) was their preferred low-level flying altitude and that the litigation was essentially all behind them.

Accordingly, I wish to inform the commission that I have been made aware that one plaintiffs group involved in this litigation has filed a Notice of Appeal, dated August 11, 2005, in the Federal District Court. A second plaintiffs group is expected to file their appeal this week. It is my understanding that, notwithstanding their victory in the 5<sup>th</sup> Circuit in October 2004 effectively vacating FAA approval and the Air Force Record of Decision and Environmental Impact Statement (EIS), they now seek to impose even greater court-imposed interim flying restrictions in the disputed training areas (imposing a 1,000 ft floor in IR-178).

I bring this to your attention only to eliminate any doubt as to whether this litigation will continue into the future. It is now an indisputable fact.

Thank you for your consideration, and for your service and leadership on the commission.

Respectfully yours,

  
John Thune  
U.S. Senator

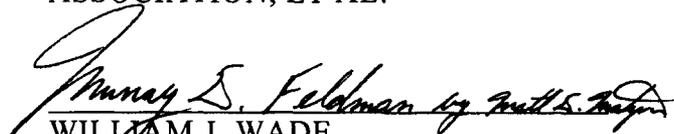


DATED: August 11, 2005

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

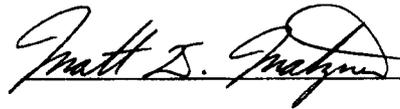
I hereby certify that on this 11<sup>th</sup> day of August 2005, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

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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