

ERIK B. RYBERG

ATTORNEY AT LAW

June 9, 2011

The Honorable Michael B. Donley
Secretary of the Air Force
1670 Air Force Pentagon
Washington, DC 20330-1670

COPY

Dear Secretary Donley:

I am writing you on behalf of my clients regarding the Operation Snowbird Program at Davis-Monthan Air Force Base and its air operations. My clients and I believe this program is being conducted unlawfully because it has not undergone National Environmental Policy Act review.

In November of 2008 some 500 residents of Tucson wrote to Secretary of Defense Gates expressing their concerns over the safety and noise of aircraft currently being brought in over densely populated urban Tucson by the revised Operation Snowbird Program ("OSB"). Senator Kyl's office assisted in obtaining a reply. In reply to Senator Kyl, the Air Force stated that an independent study would be conducted of the revised OSB Program to address residents' concerns.

This study, termed the "Wyle Study," was initiated in 2009 and found that OSB has changed significantly since its initial EA was prepared in 1978. That EA evaluated the impacts of temporary winter-time proficiency training of Air National Guard units. But OSB now includes combat training, new types of aircraft, and sister service and foreign pilots. Because these changes were all done without any environmental analysis, and because OSB now amounts to a very different program from what it was in 1978, the Wyle Study recommended that a new Environmental Assessment be done. The Air Force subsequently terminated the Study in October 2010, and stated that an EA would be prepared, although there has now been an unexplained, very lengthy delay in initiating the EA.

It is clear from the Wyle Study that the revised Snowbird Program is currently operating, and continues to operate, without NEPA authorization. No environmental analysis has been done of the revised Program, despite the acknowledgement in the Wyle Study that the program has changed, and now requires such an analysis.

Three years have now passed since our letter to Secretary Gates, and residents under the flight path remain concerned that an assessment of safety-risk and noise impact of the revised Program has yet to be done. They note that Harriers and F-18s brought over Tucson by the revised OSB have poorer safety records and are two to four times louder than Davis-Monthan's principal mission aircraft, the A-10.

The revised OSB Program also strays significantly from promises made in the 1978 letter that the Air Force wrote to the Tucson Community after a fatal accident near the University killed two sisters in a passing car. In that letter, the Air Force advised that a

number of actions would be taken to reduce the potential for a similar accident in the future. These included the conversion from single engine A-7s to dual engine A-10s at Davis-Monthan and reduction in Air National Guard activity at DM.

Worse, the Air Force continues to this date to bring in higher risk aircraft over Tucson for OSB. As the Air Force itself has pointed out, despite the best training and maintenance, history makes it clear that accidents unfortunately do occur. Because OSB aircraft fly over densely populated urban neighborhoods, even a minor accident would be potentially catastrophic.

We therefore ask that the Air Force halt revised OSB air operations until an EA is completed and the Air Force complies with both federal law and its 1978 promise to the Tucson Community.

Please note that I wrote Major General Byers with similar concerns, and in his reply of January 24, 2011 he stated that the environmental impacts of OSB have been studied at least four times in the last 32 years. But two of the four examples given (1995 and 1999 EAs) relate solely to construction of facilities and contain no discussion of air operations. The third example (a 2002 EA) makes no mention of the OSB Program, nor of the Harriers, F-18s or Tornados that are of concern to Tucson residents. The remaining EA cited, completed in 1978, covers the OSB in detail but none of the aircraft described by or authorized by that document fly any longer. Although we understand that the General probably did not author the letter, a more considered and accurate response would have been appreciated.

My clients and I look forward to your earliest reply.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Erik B. Ryberg', with a long horizontal flourish extending to the right.

Erik B. Ryberg

Cc: The Honorable Jon Kyl, U.S. Senator from Arizona
The Honorable Raul Grijalva, U.S. Representative, Arizona 7th Congressional
District
Major General Timothy A. Byers, DCS/Logistics, Installations & Mission Support
General Philip M. Breedlove, Vice Chief of Staff, US Air Force