

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

February 5, 2009

No. 07-60595

Charles R. Fulbruge III
Clerk

DAVIS MOUNTAINS TRANS-PECOS HERITAGE ASSOCIATION,
a Texas non-profit corporation

Petitioner

v.

FEDERAL AVIATION ADMINISTRATION; MARION C BLAKEY,
Administrator; MARY E PETERS, Secretary of Transportation

Respondents

Petition for Review of an Order of
the Federal Aviation Administration
2000-ASW-01-NR

Before REAVLEY, BARKSDALE, and GARZA, Circuit Judges.

PER CURIAM:*

Petitioner challenges the decision by the Federal Aviation Administration to adopt a supplemental environmental impact statement (SEIS) completed by the Air Force after our remand in Davis Mountains Trans-Pecos Heritage Ass'n v. FAA, 116 F. App'x 3 (5th Cir. 2004) (Davis Mountains I). We held in that case that the respondents did not satisfy the National Environmental Policy Act, 42

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

U.S.C. §§ 4321–4370f, because they failed to address adequately wake vortex impacts and FAA comments. We are satisfied that the SEIS adequately addressed our concerns in Davis Mountains I, and that the FAA's decision was not arbitrary or capricious. See *Miss. River Basin Alliance v. Westphal*, 230 F.3d 170, 174 (5th Cir. 2000); 5 U.S.C. § 706.

PETITION DENIED.