

ORAL ARGUMENT NOT YET SCHEDULED

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Nos. 15-1158, 15-1247 (consolidated)

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IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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CITY OF PHOENIX, ARIZONA, *et al.*  
*Petitioners*

v.

MICHAEL P. HUERTA, in his official capacity as  
Administrator, Federal Aviation Administration, *et al.*,  
*Federal Respondents*

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On Petition for Review of a Decision  
By the Federal Aviation Administration

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**FEDERAL RESPONDENTS' MOTION TO SUPPLEMENT  
THE ADMINISTRATIVE RECORD**

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JOHN C. CRUDEN  
Assistant Attorney General

LANE N. MCFADDEN  
Attorney, ENRD Appellate Section  
United States Dept. of Justice  
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The Federal Respondents respectfully move this Court to add two documents, which are attached here as Exhibits 1 and 2, to the certified index to the administrative record for these consolidated petitions for review.

As is explained in the accompanying Answering Brief of Respondents, the petitions for review identify as the subject of this Court's review two letters sent by the Federal Aviation Administration ("FAA") to the City of Arizona. However, neither letter is an "order" for purposes of 49 U.S.C. § 46110 that this Court can review, and FAA therefore had no formal administrative record for those letters. FAA instead filed with this Court the administrative record for a prior agency decision that Petitioners belatedly seek to be reviewed, and FAA included with that administrative record a collection of post-decisional correspondence that provides further evidence of events that occurred after the relevant date of FAA's order.

At the time that FAA filed its Certified Index with this Court, it believed it had included sufficient post-decisional information to provide an accurate picture of later events that might be discussed by the Petitioners. However, the opening briefs of Petitioners raised additional

issues that require further documentation to explain. For that purpose, and for that limited purpose only, FAA submits the attached exhibits.

One is a letter from Michael J. Huerta, Administrator of the FAA, to the Honorable Jeff Flake, United States Senator, dated March 3, 2015.

(Exh. 1.) The second is a letter from Administrator Huerta to Ed Zuercher, the City Manager of the City of Phoenix, Arizona, dated February 25, 2015. (Exh. 2.) The documents are cited on page 72 of the answering brief.

We respectfully request that this motion be granted.

Respectfully submitted,

s/ LANE N. MCFADDEN  
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United States Dept. of Justice  
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**CERTIFICATE OF SERVICE**

I hereby certify that I served the foregoing Motion on all counsel of record by use of the DC Circuit's CM/ECF system on July 21, 2016.

s/ LANE N. MCFADDEN  
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United States Department of Justice  
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# EXHIBIT ONE



U.S. Department of Transportation  
**Federal Aviation Administration**

The Honorable Jeff Flake  
United States Senate  
Washington, DC 20510

Dear Senator Flake,

Thank you for your letter of February 20 and the designation of former Congressman Ed Pastor and Assistant Aviation Director Chad Makovsky as the City's representatives for the Phoenix Working Group.

As you know, Mr. Glen Martin and the Working Group leads met with your representatives last week to hear their concerns. As a result of that meeting, we will focus on the western departure routes, both north and south. The Working Group is meeting and has developed an aggressive time line for completion. Mr. Martin will be working closely with your representatives throughout this process. We look forward to the completion of the Working Group's analysis and recommendations.

If I can be of further assistance, please contact me or Molly Harris, Acting Assistant Administrator for Government and Industry Affairs, at (202) 267-3277.

Sincerely,

Michael P. Huerta  
Administrator

AJV-1: C. Anderson: ca: (202) 267-9255: 3/2/15  
Control No.: FAA-150220-002 Flake  
Z:\Correspondence\CCMS 2014\CCMS Responses\FAA-150210-002 Senator Flake phoenix work group\_AJV-1 grid.docx

CONCURRENCES	
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INITIALS/SIG	<i>CA</i>
DATE	3-3-15
ROUTING SYMBOL	AJV-1/ M. Johnson
INITIALS/SIG	
DATE	
ROUTING SYMBOL	AJV-1/ M. Adams
INITIALS/SIG	
DATE	
ROUTING SYMBOL	AV-1/ F. Black
INITIALS/SIG	
DATE	
ROUTING SYMBOL	AJV-1/ E. Parish
INITIALS/SIG	<i>E. Parish</i>
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# EXHIBIT TWO



U.S. Department of Transportation  
Federal Aviation Administration

Mr. Ed Zuercher  
City Manager, City of Phoenix  
200 West Washington Street  
Phoenix, Arizona 85003

Dear Mr. Zuercher,

Thank you for your letter of February 10 and the designation of former Congressman Ed Pastor and Assistant Aviation Director Chad Makovsky as the City's representatives for the Phoenix Working Group.

As you know, Mr. Glen Martin and the Working Group leads met with your representatives last week to hear their concerns. As a result of that meeting, we will focus on the western departure routes, both north and south. The Working Group is meeting and has developed an aggressive time line for completion. Mr. Martin will be working closely with your representatives throughout this process. We look forward to the completion of the Working Group's analysis and recommendations.

If I can be of further assistance, please contact me or Molly Harris, Acting Assistant Administrator for Government and Industry Affairs, at (202) 267-3277.

Sincerely,

Michael P. Huerta  
Administrator

AJV-1: C. Anderson: ca: (202) 267-9255: 2/25/15  
Control No.: FAA-150218-006 Zuercher  
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CONCURRENCES
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