

National Park Service  
And  
Federal Aviation Administration

NATIONAL PARKS OVERFLIGHT ADVISORY GROUP (NPOAG) AVIATION  
RULEMAKING COMMITTEE (ARC) MEETING MINUTES

February 23 & 24, 2005

Federal Register Announcement of Meeting

This meeting was announced in the *Federal Register* on **DATE OF ANNOUNCEMENT (FR NUMBER)** and was held at the Holiday Inn Sunspree, 520 Historic Nature Trail, Gatlinburg, Tennessee.

Attendance

The following NPOAG members were in attendance:

Don Barger (temporary member)  
Barry Brayer (FAA ex-officio member)  
Chip Dennerlein  
Richard Deertrack  
Elling Halvorson  
Lash Larew  
Rory Majenty (substituting for Germaine White)  
Charles Maynard  
Alan Steven  
Karen Trevino (2005 chair and NPS ex-officio member)  
Heidi Williams

Other persons in attendance included:

John Allen	Wyatt Hundrup
Skip Ambrose	Gene Kirkendall
Brian Armstrong	Maria Lurie
Josie Ballenger	Jeff Malcom
Steve Bassett	Steve May
Denesia W. Cheek	George Minnick
Jane Chedester	Lucy Moore
Linda Deertrack	Robin Nazzaro
John Dillon	Lynne Pickard
Dale Ditmanson	Jim Renfro
Phil Francis	Bob Rossman
Victor Globa	Howie Thompson
Nancy Gray	Bob Wightman
Larry Hartman	Bill Withycombe
Dick Hingson	

### Opening Remarks

Karen Trevino, Program Manager, National Park Service Natural Sounds Program, and Chair for the 2005 NPOAG meetings, opened the meeting.

#### Opening Announcements:

- Dale Ditmanson, Superintendent, Great Smoky Mountains National Park, welcomed the group and introduced the park staff in attendance.
  - This program is a concern for the park
  - Several ongoing Environmental Impact Statements are currently taking precedent
  - State laws partially protect the park by limiting aircraft landings to a distance greater than 9 miles
- Jane Chedester of Senator Lamar Alenander's office thanked the group for inviting their office to participate

#### Remarks/Updates from Karen Trevino:

- Welcome two new staff members, Lee Smith and Vicki McCusker
- Thanks to the GAO for sending Jeff Malcom, Josie Ballinger, Wyatt Hundrup, and Robin Nazzaro
- We finally have a draft implementation plan.
- Regarding Interim Operating Authority (IOA) FAA has done a good job of noting the NPOAG recommendations (see briefing book 6a)
- Acoustic Model INM 6.2 Noise Model Validation Study: the Federal Interagency Commission on Aircraft Noise (FICAN) made recommendations based on implementation studies conducted by Volpe, Wyle, and HMMH and both models were updated. This marks a significant collaborative step between NPS and FAA.
- Regarding tribal issues in Hawaii: we have addressed concerns from Native elders (kapuna groups).
- Regarding impact criteria: Where and who assesses impact is an issue that NPS and FAA are not agreed upon. (See briefing book section 5 for Draft Impacts Analysis Table sent by Barry Brayer)
- Though Grand Canyon is not a part of the NPOAG process, many members and people in attendance here are stakeholders. This has been a big year for Grand Canyon over flight issues as we have begun the Alternative Dispute Resolution (ADR) process. Lucy Moore, of Lucy Moore Associates, is heading the ADR and working with Lynne Pickard and Karen Trevino to move toward a transparent process of collaboration between agencies. It has been agreed that a Grand Canyon NPOAG Working Group (GRCA NPOAG) should be formed and further discussion of this topic will be held later in this meeting.

#### Remarks/Updates from Barry Brayer:

- The two NPOAG vacancies for the environmental representatives have recently been announced in the Federal Register. Nominations need to be made (self-nomination is accepted). For environmental seats, NPS proposes the candidate and the FAA will give approval. For Aviation seats the reverse is true. Tribal seats are jointly appointed and approved. The charter requires a change after 3 years of serving, but

members can be re-nominated and serve again. There is an announcement for the GRCA NPOAG working group. Interested parties can be nominated and serve on both groups.

- FAA is welcoming Victor Globa to their staff
- Thanks to the Flight Standards Office for sending John Allen and Gene Kirkendall
- Regarding implementation planning: we have been struggling, but are on the verge of getting Hawaii and some others done. There were many discussions about categorical exclusions, which we will not do. We are looking into possibilities like a programmatic EA or EIS to do things more efficiently.
- We have also been discussing clustering by park environmental issues. There is a move toward streamlining and moving with a final plan. When discussing small operating parks we mean number of operators and flights, not size of park.
- We have been working both with the Volpe Center in Cambridge and the NPS Denver Service Center.
- (See NPOAG Co-Chair report briefing book section 2 for more information)  
Numbers listed come from applications (due by Jan 2003)
- Flight restriction over USS Arizona in Hawaii has been lifted to a degree but it is not listed as one of the 9 ongoing ATMP projects
- Regarding FY04 accomplishments: the kickoff meeting at Glacier NP was interesting because of the park General Management Plan (GMP) call to ban air tours. GMP goes through a different process than ATMP.
  - Karen Trevino and Chip Dennerlein disagree about this point because they feel that both are an EIS and go through the NEPA process.
  - Alan Steven notes that the intent that some parks should be banned was an original working group discussion and that the GMP has its own merits. **Alan feels that there should be a breakout group on this issue.**
- Regarding recent accomplishments: Barry felt the FAA/HTOC meeting was particularly successful.
- Regarding the GAO audit: Senator Fritz Hollings has been replaced since the original audit request.
- Of note is that Rory Majenty who hosted the 2004 NPOAG group at the Hualapai Nation is a substitute for Germaine White at this meeting.
- Since that meeting in September we have a lot of new things needing input.

Remarks/Updates from Bill Withycombe:

- Considering that this program is young and that our first real guidance is from 2003, we have made a lot of accomplishments and have lots of interagency coordination here. There have been major points of agreement and will do more to accomplish the process. A bonus is that we have had a lot of help from the operators.
- There is interest from senators and they will find that the project is much more complex than it initially looks.
- We want to protect the natural environment as well as represent aviation and will continue to work with everyone here to make sure the program is successful.

### Administrative Issues

Issue of Hawaii Parks nonpayment of fees investigation. The investigation conducted by the Inspector General was self initiated. The issue was that beyond ground visitor fees, there was to be a fee for air tours and the superintendent of Hawaii Volcanoes was not collecting the fee. Jeff Malcom of the GAO commented that this kind of investigation was directed at Haleakala and other parks that have a similar level of flight activities. Neither Karen Trevino nor NPS Solicitor Marie Lurie has heard of the resulting report from this investigation. **Karen will follow up on this and find out if any literature is ready for release.**

DO47, the order requiring parks to do Soundscape Management Plans, sunset in Dec. 2004, and there are no plans to redo this order.

**For future use, an overlay of the agency regions would be useful as FAA and NPS break up regions differently. Additionally, if a large-print NPS uni-grid map is available one will be requested for the next NPOAG meeting, as a reference tool.**

There are questions about operator locations and flights over reservation lands. Chip Dennerlein feels that there must be unlisted flights over reservation lands by virtue of path taken to get to the park land.

- Alan Steven – operators have to consult tribal agencies if they fly over them.
- Barry Brayer – NPATMA exempts operators from consulting tribal lands outside the park. That is covered under the National Historic Preservation Act.

### Update on FAA Response to IOA Recommendations from NPOAG & FAA Process for Response to Correction Notices

Lynne Pickard and Gene Kirkendall have worked to incorporate the recommendations to self correction and have tried to get 81 letters sent out. New entrances to the database are still awaiting authority before sending a self correction letter. Though responses are slow, operators are correcting numbers –some numbers will decrease while others increase. There were a number of reasons that some of the information was entered incorrectly in the first place.

- Don Barger had a question regarding IOA about how the numbers increased since the application deadline has passed. Barry Brayer clarified this point that operators can apply at any time, for example operators who were flying over parks and did not know it because they did not know the boundary location, can apply later.
- Chip Dennerlein made a point to get IOA right because, due to time lag between completion of ATMP it will be the foundation of how the law will be implemented.
- **Karen Trevino wanted FAA to pull together the IOA responses for NPOAG to go over.**
- It was agreed that the IOA applications sheet (given by Kent Steven) is not accurate. Gene Kirkendall is in the process of correcting the list and getting accurate numbers. A new list will be forthcoming and Gene will look into the possibility of sharing information. Information can be given freely to the NPS, but need to check on the ability to release to the public.

- Barry Brayer about numbers: an operator may give short flights that may not go over park boundaries. We need to count flights that only go over the park, not just takeoff and landings. Just because the numbers are disparate does not mean that they are not accurate.
- Lynne Pickard reported working on making maps available to operators for purposes of reporting on locations of flights with respect to public and tribal lands
- Karen Trevino – in the aftermath of the senate hearing one issue was that the park (GRSM) had not been given information from FAA. This is an embarrassing oversight that makes agencies look like we are not sharing information. Gene Kirkendall remarked that this issue is easily remedied as soon as he can get the numbers.
- Heidi Williams noted that sources other than the Federal Register should be used to inform the Part 91 operators of the self-correction notice. (This was an issue raised at the last NPOAG meeting and noted in recommendations) Lynne Pickard and Gene Kirkendall agreed that notices in aviation magazines and other avenues would be sought.
  - Alan Steven did not get his letter due to incorrect address. The IOA list is useless without the DBA names. He noted that the letter was hard to understand even with the inclusion of the circular. Operators have never seen draft guidance.
  - Lash Larew – **if the associations can assist part 91 we would like to help with distribution of information. We need to reach the people who need to be in compliance even if they are required by law.**
- Bill Withycombe has identified the need to give Flight Standards District Offices (FSDO) more guidance since they work most closely with the operators. A FSDO draft manual has been prepared and the lead manager for Flight Standards was interested and passed it to John Allen and Gene Kirkendall.
  - John has a series of handbooks and is in the process of organizing them by subject so there would be an environmental subject guide.
  - Richard Deertrack wanted to know the relationship between the guides and tribal lands, not just park lands.
  - Rory Majenty has had 2 operators flying into sacred areas of the canyon and letters were sent to FSDO.
  - Lynne Pickard has been working with the GRCA and Las Vegas FSDO concerning operators not following the regulations. Bill noted that FSDO was given a list of tribal locations that should not be accessed in flight as guidance and distribution to the operators. The guidance will be distributed to the inspectors for enforcement.
  - Chip Dennerlein compared the handout list of IOA applicants (briefing book 6d) to actual location of parks and noted that there are 11 tribal areas affected. The FAA listed only 5 tribes affected by air tours. Barry Brayer can only list the 5 operators that applied for flying over tribal land. This is a location and route issue. The tribe is a cooperating entity if the land abuts the park.
  - Lash Larew recommends consideration in IOA of tribal lands where appropriate though the law does not require it.

- Don Barger expressed appreciation for Gene's work and input. There are more than logistical reasons for noting which flights are being granted. We have to consider beyond flight safety, and think of impact to natural resources. An EA can be done and can be very short. The essential piece is that you either move to an EIS (ATMP) or do a FONSI. AN EA gets you to the answer you need and allows you to make sure that no one will sue you.
- Barry Brayer agrees with this group on the issue at hand. Routs, times, and altitudes are all important to answer the questions here. The law required reporting of numbers. If we ask for other information we almost have to do NEPA again and look at logistical information like location and if you do NEPA, you have an ATMP.
  - Karen Trevino disagrees that the law just requires numbers, but requires determination.
  - Barry notes that there is a gap between what is required by the law for operators and what is required by the agencies for ATMP.
- Karen Trevino wanted to know about information gathering and sharing. Chris Shaver (NPS Chief of Air Resources) requested IOA information in April 2003 and the NPS is required to report on these issues – we are waiting for information. Internally in FAA there have been obstacles to getting information. There might be some proprietary information in there and this needs to be protected but will NPS be allowed to share information when we get it?
  - Lynne Pickard – the applications can be shared with NPS but FAA thought you would not want the earlier ones that were not self corrected yet. We do not have route information on the IOA applications.
  - Chip Dennerlein makes the point that route information cannot be proprietary because it is readily available to the public in operator advertisements, to clients, and to ground observers. Location information is key because it can be the determining factor if something is appropriate or not. The law is not ambiguous because you can give provision based on location. You can fly more times if you fly over a certain ridge that reduces noise in a quiet valley.
  - Alan Steven doesn't want to get hung up on route information until the ATMP has begun
- Karen Trevino on routes: when the advisory circular was sent out there was input from NPS to include route information – that has been left out. I have been working with FAA's lawyers to include this information but have not made significant progress. If we don't have it we can't make assessment or reports.
  - FAA lawyer Carol Toth has identified what FAA can and cannot ask for.
  - Elling Halvorson notes that in the original scope IOA was to get the numbers of the flights and the ATMP was to assess later the impacts and routes and evaluate at that point.
  - Don Barger thinks that we need route information to determine if it impacts park protection, while Barry Brayer thinks that putting a cap on any operation protects the park.
- Lash Larew – We are getting into a situation where IOA has become the standard of operation and that is where we run into trouble. IOA was not supposed to be the standard, just the starting point. It was originally envisioned in a shorter time span, which in a perfect world would work. Since the reality is turning out to be quite

different we may need to rethink how to fulfill this part of the act. IOA can allow for modification if it improves protection

- Lynne would like to get the numbers first and not do EA's based on the IOA's because from a NEPA standpoint it would take over and become unattainable.
- Karen Trevino notes rather than talk about what should have been done let us focus on what has been done and what we can do to improve the process and further future collaboration and information gathering/sharing that will allow better reporting and determination/regulation.
- **John Allen will look into sharing the applications, immediately if possible.**
- Gene Kirkendall thinks that **a secure, password-protected, web-based database that operators/administrators/park staff can see/access information given access permissions, is the best way to go for real time accurate information.** Given funding and manpower, a prototype could be developed between 6 months and a year.
  - Rory Majenty inquired about tribal access to the information, but this This may be more of an ADR issue. Maria Lurie suggests that FAA should check with General Council about sharing info with Indian tribal Governments based on Interior experience.
  - This is not a quick fix, but that doesn't mean that we cannot explore other technologies or avenues that may help solve the problems in the future.
  - In the meantime information will be shared through paper trail. Long term, we need to get the data, then figure out if the answers are correct or that operators are not following their numbers.
- Chip Dennerlein suggested the use of uni-grid park maps sent to operators. Give them the option to draw their routes on the map and send it back with corrections or applications. This promotes protection of park resources if you can easily ask how the operator can adjust flights, times, routes, or elevations to fit the area marked or proposed. It would be a tool to for planning purposes that does not violate NEPA and is not an EA, but can be used to prioritize ATMPs.
- Don Barger said to use purpose and need if an operator does not defer to the suggestion to protect resources. Lash Larew added that if an operator says no, that would be the time to initiate the ATMP plan. Get back to the core. Who is operating, what after the flights, what parks are being over flown.
- Elling Halvorson believes in negotiating with parks but there are elements of problem solving and problem making on each side. Park staff turnover has issues because some will allow what others will not, and newcomers do not understand or live with the history behind some of the prior decisions.
- Bob Rossman recommended a regional systematic process for dealing with IOA, communication issues, validation, and enforcement. Do we need an enforcement subgroup?
- Barry Brayer said that if we are not making a federal decision, it might not need NEPA. Advisory circulars are just that – advise, guidance, requests, not policy.
- Lynne Pickard noted that this is not the process of issuing IOA, only cleaning up the numbers and getting the information to issue IOA.
- Don Barger cited the FAA regulations stating that IOA will be issued pending that operators “Shall...” and a list of conditions. No one is being told right now that they

cannot fly. The agencies are vulnerable to lawsuit at this point if IOA is being issued without following their own regulations.

- Karen Trevino agreed on this vulnerability and wanted to know what the formality the FAA uses to grant IOA, though that NPS did not know this was surprising to Don Barger.
- Gene Kirkendall responded with the process that an operator gets issued operation specifications (op specs). Part 91 operators get a letter of authorization with a paragraph attached.
- Lash Larew said that the only limitation is the number of flights in the op specs.
- Alan Stephen – You fill out something for authority, get a letter back allowing flights, then get a letter issuing IOA from the FSDO. We have IOAs out there whether they were issued officially or not. Lash sees this as a trigger device to begin the NEPA process and that will be the official process and as long as you were acting safe.
- Lynne Pickard said that FAA is still figuring out some of the language issues like what is considered protecting the park resources, and when and how we issue the IOA. Both agencies have had turnover so we need to assess where we are currently and push forward from there.
- Karen Trevino thinks it is a laudable goal to minimize the impact to air tour operators.
- **Don Barger feels that there are issues that the NPS and FAA will never agree on because it is contrary to each agencies mission. The moral dilemma is who decides what. NPS cannot manage airspace and FAA cannot manage parks.**
- Karen Trevino suggests initiating another MOU to decide how to jointly do things.
- Barry Brayer feels that the agencies need to tell NPOAG about the issues we have not been able to work out and get your advise on how to proceed. We can probably publish some of these issues and start to move forward. He also feels that since FAA has not allowed any new operators yet, and no more Cat Ex's, that in and of itself is park resource protection.
  - Karen Trevino noted that parks don't always know when there is a significant impact, so we cannot expect that to be known quickly.
- Heidi Williams wants NPOAG to be alerted, as documents are published, when anything is published in the FR. Don Barger wants allowance for public comment on publications.
- Chip Dennerlein made the point that there needs to be more investigation because numbers do not seem to check out (he cited operator numbers in GRSM). He is concerned about issuing IOA prematurely because specific authority may be granted that then has to be retracted (which will be more difficult).
  - Karen Trevino noted that Gene Kirkendall is working to correct the problem of issuing IOA to anyone who applied.
- Alan Stephen/Barry Brayer – The FSDO job is to promote aviation safety, not to investigate IOA. FAA works with NPS to implement ATMP. Enforcement is the third piece and the Flight Standards Office is the enforcement arm of FAA. Certification, surveillance, enforcement. The process for this is well set up and it is investigative due process. It has to be iron clad when taking action against operators.

- Karen Trevino was surprised that it did not have to be iron clad to hand out, but must be to take away.
- Regarding Richard Deertrack's question of if tribes are contacted before IOA is issued
  - Karen Trevino said no
  - Rory Majenty responded that the Hualapai Nation is contacted by the FSDO, but they have their own air tour plan because they are in the air tour business. Safety is a great concern to the Hualapai because accidents are limiting to their access of the canyon.
- Karen Trevino noted that there is more guidance on IOA now and that this needs to be provided to Gene Kirkendall's shop. Get numbers and publish them in FR and get comments back –and establish a process to reconcile and figure out what merits an investigation.
  - Heidi Williams said that there is already a white paper issued by one of the subgroups addressing the issue above. There is already a working group tasked to investigate SS I Modification to IOA.
- Chip Dennerlein mentioned the verifications handbook, from aviation and park members present here. The investigative process is the third piece of IOA verification.
- Bill Withycombe – FSDO is investigative, but based on existing regulations (135 Safety, 91 flight rules, op specs, far 136). There is a compliance process and enforcement process and handbooks in place. It starts with complaint, and then using the tools above, an investigation is conducted, then enforcement can be made in fine, suspension, or administrative action.
- Karen Trevino asked that the same respect given to operators in opportunity for self-correction also be given to a commenter; be it park, visitor, or conservationist.

**The group will defer further discussion on enforcement for now pending developments on the part of the Flight Standards Office.**

Barry Brayer wants to discuss a working group on modification

- Heidi Williams sees overlap with modifications group and enforcement group, perhaps the working group papers should be pulled together to form a new paper from existing documentation. Chip thinks this should not take much time since we are familiar with the documentation.
- Alan Stephen wants to define the difference between comments and complaints and get thoughts on this issue.
  - Gene Kirkendall clarified that a formal complaint is a last resort.

Update on FICAN Modeling Exercises

Skip Ambrose reported that INM 6.2 is ready for release. Tom Connor was the lead in this. We need a model because the acreage is so big that we can't monitor every place in every park. The 4 modeling programs considered were FAA's INM (Integrated Noise Model), a Second Version of INM, NPS National Park Service Overflights Decision

Support System, and the military program NMSIM (Noise Model Simulation). Results of the 2003 Model Validation Study were as follows:

Found NMSIM predicted audibility most accurately; INM and NMSIM were about equal in predicting sound levels.

- INM did not use 1/3 octave bands to model audibility, so less accurate
- NMSIM could use only one baseline, and most parks have many baselines.

Modifications were made to both models to address above issues.

Now results are equal, so we considered additional factors:

- NMSIM is proprietary (owned and licensed by Wyle), so more expensive;
- INM 6.2 is public;
- NMSIM is new and not easy to use.
- INM 6.2 easier to use; is common throughout the world.

Degree of error is a factor in both as there will always be some. INM 6.2 was selected, and both agencies are comfortable with this choice. **A caveat is that in order to model you need a route.**

- Bill Withycombe added that modeling of individual aircraft has been entered as baseline in INM. The simulating feature allows making modifications to aircraft with similar configuration and accepted models with similar noise characteristics. Currently we need 5 more aircraft.
- Skip Ambrose/Alan Stephen – When we get a final recommendation from FICAN we will publish this information for comment.
- Skip Ambrose/Elling Halvorson – We are using certification data for the baseline where applicable but have had mixed results.
- Bill Withycombe noted that FAA held Volpe to a pretty tight reign of accountability and kept an eye on process so it will work for us not against us.

#### Update on ATMP Implementation Plan

Steve May and Bob Rossman presented as follows: The original implementation plan was drafted in April 2004 with a follow-up meeting in June in Fort Collins, Colorado. The plan was dedicated to three groups: FAA offices in the field (FSDO), NEPA contractor, and NPS field offices (parks). The objective stems from the MOU and was intended to supplement the FAA/NPS regulations and orders, and bridge the gap between agency regulations. The plan combines planning and NEPA. We wanted a cookbook style guide that, like recipes, lays out how to get to each step in an itemized checklist. There is a massive appendix with presentations, meeting minutes, etc. This is a living document with often, possibly annual updates. The main sections are the programmatic element, the planning and development element, the initiation of the ATMP process and documentation including meetings, planning, scoping, environmental impact and other necessary documentation. We have done about 1 revision per month and are now on Version 7. Currently the plan is caught up to where we are in development. We gave background information about the implementation plan at the last NPOAG meeting and said that we were working toward a product at that time. Now you have a copy to see (briefing book 4a).

- Lynne Pickard voiced concern about limitation issues and that even establishing a route is a limitation.

- Bob Rossman stated that at the June Coordination Meeting all parties agreed that this is a joint NPS/FAA plan. He expressed the idea that the plan was written by Volpe at FAA's direction, and that NPS is not a full partner in this effort.
  - Bill Withycombe responded that FAA has been working with NPS since day one. It was turned over to Volpe for manpower and money issues. If the park service came up with the money, that is where FAA will take the plan.
- Barry Brayer said that the ATMP program initially had an aggressive plan start 25 parks per year. If this was a cookie cutter program, we could do that. We found out that there are a lot of different issues and legislation for each park. Having two agencies do this is a new thing, and we are still learning and updating the plan as we go along. As you (NPOAG) read the plan, you may recall discussing some of the addressed issues and note that we are including input from NPOAG. Volpe melds the info from both agencies into a cohesive document so we don't have to reinvent the wheel with each plan, just follow the standards in the implementation plan. It has not been easy – we struggle, and that takes time. We should be happy with our progress.
- Karen Trevino has a question about the absence of enforcement (ATMP or IOA) that Steve May responded by citing Chapter 3. This section has enforcement but is not really filled out and IOA is not addressed.
  - Bob Rossman noted that as a reason why this feels like a one-sided document. NPS wanted IOA discussed in the plan, and it is not there.
  - Bill Withycombe said that enforcement will be handled by FSO and never by his program office. Lynne Pickard has worked with John Allen on the enforcement issue.
  - Karen Trevino is not comfortable with separating enforcement from ATMP Imp Planning. Whoever enforces those authorities (when they decide to enforce) should have a collaborative document to work with.
  - Lynne Pickard wishes that the FSO had been managing IOA since the beginning – we would be in a better position at this point, but that is not the case and all we can do is move on.
  - Bob Rossman said that one of the three groups this plan is dedicated to is the FSDO, so we should have items addressing IOA implementation. We get questions from the field NPS about implementation and enforcement of IOA and ATMP at alternative development meetings.
- **The group agreed that placeholders should be put in the implementation plan to include sections addressing IOA (and enforcement).**
- Lash Larew thinks that having a checklist is important and agrees with giving operators a list of rules and have another body who regulates those rules. Some of these issues are inter/intra agency and cannot be addressed with NPOAG. Getting wrapped in the enforcement process may be counter-productive to the process as a whole.
- Charles Maynard requested that the agencies be a little more clear on issues before bringing documentation before the NPOAG.
- Karen Trevino expressed concern that no one in FAA is enforcing IOA under the authority that NPS knows. Bill Withycombe and Lash Larew disagree and stated that enforcement is being carried out.

- **The group agreed that more education was needed for the field offices of both agencies. Bill Withycombe will push flight standards to develop training that the NPS people can attend at the FAA academy in Oklahoma City.**
  - It was suggested that a future NPOAG meeting be held near the FAA academy so NPOAG could see the training facility/presentation.
- Richard Deertrack was happy to see tribal sovereignty is addressed on the plan. It is important to acknowledge federal responsibility in these issues.
- Don Barger wants a little clarification. Is this an ATMP or NPATMA implementation plan? I don't think NPS wants to take over the police power of FAA, but they need their concerns addressed on enforcement. You need to craft the decision making process. It is the position of FAA to determine resource impact in NPS? You cannot decide by a vote or consensus. Who is responsible for laying out those routes? The NPS lives in a different world due to the subject matter. A central issue for NPS is that there are site-specific issues that supersede noise level because some areas are inappropriate for certain activities. The lead/cooperation status has to do with NEPA and that is not a relative position of the agencies. You can't tell each other that you are cooperating, you have to actually cooperate. FAA just decided on IOA and the NPS was not part of that decision. This act called on you to keep each agency retaining its jurisdiction while collaborating in this effort.
- Lynne Pickard disagreed with the view on FAA's environmental response and authority and felt they do have environmental rules that are administered in other arenas with cooperation with communities screening for safety and impact. Lead/cooperating agency makes no difference when each agency has to sign the documents. We can still reach consensus for the purpose meeting the needs of the act.
- Karen Trevino responded that clearly both agencies need to work on collaboration. There will be respect for agency jurisdiction. The NPS has exclusive management responsibility over the resources in the park and we will not cede that to FAA.
- Barry Brayer said that the act is clear and there are two decision makers at the end of the day though it may be a struggle to get there. Also there is the public aspect which provides the luxury to get input from various community representatives and stakeholders.
- Chip Dennerlien remarked that there needs to be one process to implement consistency. People need to know how to comment and file complaint for each park. He wants to know that the FSDO and he Park Staff got the same training and will have the same understanding. There needs to be emphasis on joint training and workshops.

#### FY05 ATMP Action Plan

Steve May handed out the Proposed FY05 Program Management Plan, which provided a park schedule, summary and plan for this year's work. The purpose and need statement is now complete on FAA's critical path. Topics still need to be finalized. The paper gives an idea on the funding obligation through the years of the project. We contract to Volpe due to manpower issues. We have funds, no staff. A chart describes where the money to Volpe has gone, in a work plan and task oriented evaluation process.

- Steve May responded to Rory Majenty's question on timeline to get to other parks. Work is proceeding as fast as possible, but given current progress, there is no accurate prediction.
- Bill Withycombe clarified Volpe's role as a franchise fund. If movement is not made on projects we may lose some of the funds since it is not no-year money. NPS is dealing with a limited staff and funding scenarios as well. FAA has more money but overall this is a limited effort.
- Don Barger noted that NPCA may be able to assist in the funding scenario.
- Steve May noted risk management in the document priority (documentation pg 14).
- In reference to Table 5.1 (Summary of Challenges) Skip Ambrose wants to see NPS listed with AEE. Bob Rossman noted also that NPS should be part of the support for items other than purpose and need, and increases to IOA.
- Richard Deertrack wanted to know if there were any provisions for tribal expenses due to ATMP development.
  - Bill Withycombe thought that those expenses would be covered since money is set to cover all associated costs. It would have to be worked out in the consultation for funds set aside for CEQ (Council on Environmental Quality) regulations. Barry Brayer agreed that FAA will have provisions to cover the costs of cooperation.

#### Section 106 & Tribal Consultation

Brian Armstrong led this presentation: We have provided a lot of background and worked extensively with Richard Deertrack, Rory Majenty, and Germaine White. We have initiated government to government participation (in Hawaii we have done all but gov-gov consultation) and encouraged participation in public scoping meetings. The next step in the process is to send out alternative development reports to the native groups for input to the process. The idea is to share information, gain comment, and avoid impact to culturally sensitive areas while avoiding the cost associated with site specific identification, and allow confidentiality of sites from the public identification. We identify the lands specifically noted on the applications in a line item that operators are asked to identify any lands that they fly over.

Bob Rossman added that the NPS role has been in support of the FAA. NPS reviews letters and documentation, but are not side by side in this process and are comfortable with that stance until something happens to change that relationship.

Rory Majenty – I see the friction between agencies and am not surprised because I see that in tribal agencies as well. You cannot ignore the Indians in your travel be it flight or on road. I am the Hualapai tourism director and am in charge of the airport. I deal with many aspects of economic and ecological life. I rely on our elders because they laid the foundation that we live upon. They wanted to promote and protect the land. We want to continue that as well as look at the economic ramifications of the tourism industry as it is our main tool for our economic development. Tribes need to be a part of this. Our land and our air is all we have. Once we develop, that mark is there forever. I am happy that we are kept in on consultation of our country's planning processes. The airspace industry is growing so fast. We need to have a chain of command for the enforcement of air

issues. We need to know who to call when something happens – who will address our concerns. Things may not be able to be done the way you are used to. You might not get a map to where you can set a monitor – you may have to take a guide or follow some other process. As a tribe we deal with all aspects of this industry: operators, FAA, and NPS. We need to know who will enforce a lawsuit if we need to go to that point. Consultation needs to address IOA and other pertinent information regarding overflight of reservation lands.

- Chip Dennerlein noted that there are people with integrity who are reporting tribal overflight information we just need more cooperation within and between the agencies. It is critical to get FSDO fully engaged in implementation because the ongoing relationship will be between FSDO and park superintendents. There are going to be future issues with the FSDOs and cooperation with tribes such as development of airport/helipad locations. Getting everyone on board limits the loopholes that people will inevitably try to exploit.
- Elling Halvorson has worked extensively with tribes to create a mutually beneficial relationship. He believes that if you are forthcoming and vocal, you can really get good things done.
- Don Barger cited Rory Majenty's comment that the Hualapai have an ATMP for their tribal lands. These components can be used for future development/integration and can be considered for plans like Glacier NP.
  - Barry Brayer noted that though these processes are considered, they are not required in the act.
- Richard Deertrack talked about the difficulties in trying to explain systems in two different worlds. There is a cultural difference and perception of issues such as “natural quiet” – the term may mean different things to different people. There are also cultural and perceptual differences between tribes and within tribes. Do not assume that just because you know how one group will perceive a concept that you know how all Indian groups will perceive that same concept.

#### Grand Canyon ADR Working Group and Brief Plans for Next Meeting

#### **MISSING THE BULK OF THE OPENING DISCUSSION BY LYNNE PICKARD AND LUCY MOORE**

There is general support for forming a Grand Canyon NPOAG working group as a forum to discuss rulemaking, and regulation of these issues for a very high profile and uniquely legislated park. The group must work quickly to meet fast approaching deadlines.

- It was agreed by NPOAG that the agencies should resolve some issues before coming to the table, then task the advisory group specifically and be clear about what is needed.
- Rory Majenty wants to make sure that the GRCA NPOAG will address tribal issues specific to the areas around the Grand Canyon.
- Tribes need to be considered sovereign nations in the ADR process, and consultation needs to be a parallel to the other development processes. Nine tribes have been contacted and asked about participation, representation and consultation.
- There is considerable effort for public meeting, comment and stakeholder interest.

- Lucy Moore also anticipates sub-groups, and topics will depend on tasks set before the working group.
- Members of the main NPOAG can elect to join the GRCA NPOAG, but are not required. It will be mostly stakeholders or people whose area of expertise fit into the scope of GRCA.
- There should be some sense of independence for the GRCA NPOAG and it would not be overruled by the main NPOAG, but developments from the GRCA group may be of interest to the main group.
- Alan Steven noted that there is no guarantee that this group will be successful, but it is better than the alternative; which is that the government will decide alone without input.
- ADR funding is an issue for both agencies.
  - Lynne Pickard noted that there is a funding issue in place that does not allow us (Fed. Agencies) to pay for ADR travel.
  - Rory Majenty thinks that money is an issue that needs to be considered. He said that Hualapai might be able to provide a meeting space.
- Chip Dennerlein wants it kept in mind that this may not be the last ADR for the Air Tour Program. Success of the GRCA ADR will determine future need for ADR
- **Consensus for the GRCA NPOAG is that a representative from each side (aviation/environmental) should serve on both the GRCA NPOAG and the parent NPOAG.**
- Don Barger suggested that the solution for continuity is that an environmental chair on both groups should be from AZ.
- Karen Trevino is concerned that the environmental community folks for the GRCA issues are likely not to bring outside input to the big NPOAG.
- The selection process will be through the federal register.

#### Report From Significant Impacts Subgroup

Brian Armstrong, Don Barger (presenter), Chip Dennerlein, Lash Larew, Rory Majenty, Charles Maynard, Bob Rossman, and Heidi Williams

We came up with a list of consensus agreements:

- 1 Sound is a resource.
- 2 All of the categories in section 2.12 of the plan are important.
- 3 The experience of air tour visitors as well as ground visitors must be considered.
- 4 It appears as though FAA & NPS have done a lot of work – we would like to see the work matrix that has been done so that we can comment on the work being done.
- 5 It was invaluable to have a representative from each agency present for input. We would like to have a special staff person from each agency assigned as a technical expert to assist the subgroups in the future.
- 6 The cumulative impacts of air tours over time and on future generations must be considered.
- 7 We recommend the use of these small groups earlier and more often as a fruitful use of time.

- Chip Dennerlein said that the initial visual aspect is not the deciding factor. Measure your area and the levels of noise, then make the determination based on topography, proximity to disturbances (natural and manmade), level of disturbance, Cultural/Natural Resources and land use.
  - Brian Armstrong noted that land use considerations are second to noise issues.

#### Report From IOA Modification Subgroup

Elling Halvorson, Steve May, Alan Steven (presenter), Howie Thompson, and Karen Trevino

- We focused on the amendment language of Sec. 803 (Section F) of NPATMA.
- The test of whether or not park protection of resources has not yet been brought to bear.
- We are abbot 60 days from a FR notice offering authority to grant and operate. Comments will then come in. We expect to hear from parks, local and national authorities as well as competitors who will offer alternative numbers (possibly as a correction or observation). If a small operator is only flying 30 flights a year the park might not really be aware of the operator setup.
- We came up with a Two Phase Approach
  - Phase 1: Taking the Comments
  - Phase 2: Do an analysis on those comments and then figure out an action based on those comments.
- We all agreed that FAA&NPS would review the collected data and the FAA should work with the FSDO to implement the decision and coordinate the responses. We don't have the information right now to determine where to go from here, but we could discuss this further at the next meeting.
- Karen Trevino also saw a greater level of information sharing in the future. This may merit meeting between FSDO and park staff. NPS Superintendent Meetings (national and regional level meetings of park superintendents) are a good place to implement this concept and introduce people to each other
- **Steve May mentioned corporate transfers in IOA as a parking lot item.** Barry Brayer responded that he would not feel comfortable discussing this issue without the presence of the general council.
  - Chip Dennerlein does not care who is flying; he cares about how many flights are going where, in what, and at what altitude. Competition is something you wanted NPOAG to advise upon, and this concept could lead to the possible collapse of competition. Transfers have linkages to a couple of other issues like breakup of operations and flight patterns. (1 flight through 3 parks may become 3 flights.)
- Don Barger is concerned that the resource managers or superintendents would not be able to comment or have significant input to the process.
  - Karen Trevino and Steve May responded that there is comment from park staff, and that they would be a part of determining the appropriate level of information or action needed.
  - Alan Steven felt that parks might not have all the facts when making recommendations. We need to find a way to get them the facts and take that into consideration when organizing comments. At that point you begin to look

at maintenance records and get the facts straight at that point – another reason to keep the DBA names in the records.

- Karen Trevino noted Gene Kirkendall's upcoming work and the importance it will have in these issues. She is hopeful that a lot of this will be resolved with increased sharing of information.

#### Approval of Minutes from Last Meeting

- The minutes were approved provided additional comments that were not incorporated will be included in an addendum.

#### Regarding the Formation of a Competition Working Group

Barry Brayer read from section (c)(3)A of the NPATMA stating that a limited number of operators may limit competition and be detrimental for small business. We are to develop an open, competitive process for operators' proposals, using the six factors listed in the act. We are looking for suggestions from the NPOAG to help in the development of this process.

- There is a business issue for parks and operators when you have a cap on air tours, so the competition issue needs input on the issue of parks that have restrictions on the number of air tours. We have to determine, through a competitive process, who is allowed to operate.
- Alan Steven volunteered to help develop criteria.
- Volunteers for the group: Heidi Williams, Alan Steven, Elling Halvorson, and there should be a staff appointee (as discussed in Significant Impacts above)
- Consensus was that there should be a presentation at the next meeting about this topic.

#### Processes for Information Sharing Within NPOAG

- Lee Smith (NPS) will create an NPOAG emailing list and can distribute information sent to her with the Header: DISTRIBUTE TO ALL NPOAG

#### Rotation System for NPOAG Members

- Section 5b of the NPOAG Charter (dated October 10, 2003) states that there shall be 1 general aviation representative, 1 air tour operator representative, 1 Native American representative, and 2 environmental representatives.
- Barry Brayer informed the group that this means we have to open up a few new seats in the register, but you can reapply if you want.
- Currently, the seat up for opening is the general aviation seat and the Native American seat
- Six months before Oct 2006, NPOAG will have to open more seats.

#### Public Comment

From Dick Hingson of the Sierra Club:

- As proposed above, a future meeting at or near Bryce Canyon is badly needed, especially in high summer (summer 2006 is recommended). It may be an interesting benchmark for what you do.

- Please post previous minutes on the web. The meeting notice for this meeting should be posted. This information needs to be up to date on your website.
- He was glad to see that park protection of resources was part of the discussion.
- Something of significant note regarding information sharing is that in October 2003 a request was given to Kent Stevens requesting the 30 park applications. This letter has gone unanswered. How does the public or non-government organizations get information – what is the process for this? That was the informal way. The formal way is to query the park superintendents, but the answer is even they do not know. The next step is FOIA. Attempts were made through FOIA, initially for 30 parks, and then scaled down to 12 parks. We ran into fee waiver problems. Ruth Leverens denied the fee waiver appeal. The kind of response leaves the FAA open to legal action. It is bogus to treat an educated institution with this kind of disrespect. Again, two parks in proximity were requested with fee waiver and denied. We reformulated and requested on Nov 3, but to date have not had answers. There are deadlines for these processes, and these have been left overdue. There is a problem here – if anyone wants to follow up on this: I suggest contacting Mary Lou Thompson FAA FOIA coordinator in Washington DC.
- Bill Withycombe responded that this would be part of the revised process that FAA is working on with high levels in the FSO. The hope is better information tracking and dissemination.
- Lynne Pickard added that this was an issue on her desk before this meeting. She is not happy with it and is trying to alter the process.
- Karen Trevino gave the NPS stance that as soon as the park superintendents get the information they will give it to you. She also wanted it noted that Dick Hingson traveled from Arizona at a non-profit organization expense to be here.

From John Dillon of Grand Canyon Airlines:

- Thank you for allowing public attendance and comment at this meeting.
- The NPOAG is doing a v very important process here.
- He agrees with Dick Hingson in terms of distribution of information on the meetings and the logistics.
- Commendation to John Allen and Gene Kirkendall – they really are a breath of fresh air. Recent developments will allow us to correct our numbers and gives us a change to update our information. IOA modification and verification is important. There are inaccuracies but we need the opportunity to fix these.
- He has full support of the GRCA NPOAG idea. After 10 years we are really hoping this will finally work and we endorse this move toward progress.
- As far as education to both agencies if you need information please ask. We really want to help educate and be forthcoming in this process.
- Enforcement seems like a hot topic. I don't really understand NPS concerns because I was given a number in my op specs and it lists very clearly what I am or not to do. I will not exceed and will do all I can to keep above board on these issues because the penalties are very severe by FAA for exceeding your op specs. I would not want my airlines or my pilots to be out of regulations.

Closing Remarks

Barry Brayer:

I am encouraged by the progress and changes that have been invoked during this meeting. I think we will see forward movement on these issues. Your meeting here really shows dedication and I want to give special thanks for the substitutes here today. The staff on both sides has really shown great work ethic. Thanks to GAO for coming and hopefully getting a feel for our work and how we do things. Also, thanks for the public input – this is, after all, a public process. GRCA ADR is a major endeavor and will continue to get bigger and hopefully better.

Lynne Pickard:

I will be involved in part of an effort looking at the next generation air system. This is a federal level program look at the air transportation needs of 2025. We intend to make full use of existing committees (like NPOAG) for this process in an effort to get outside input.

Bill Withycombe:

Technology, like improved satellite and radar, will be improving to a better scale for monitoring and protecting park resources. We will need to keep up with the technology because things will change before our eyes. These will be the tools to help us manage our airspace. No matter how difficult the differences between the agencies are the ATMP process encourages me because there is collaboration. We have made progress – though it may be slow. This group helps the collaborative effort. I want to extend special thanks to the park staff, and to Lucy Moore. Also to Bill Withycombe and Lynne Pickard who have worked very hard to deal with FAA headquarters on our flight standards issues.

#### Logistics for the Next NPOAG Meeting

- The next meeting is scheduled for June 28, 29, & 30 in the Mount Rushmore, Badlands, Black Hills area of South Dakota.
- It was also suggested that the Fall 2005 meeting be held in Oklahoma City (see discussion of FAA training facilities above)
- Another meeting location for future use should be the Bryce Canyon area.

#### Other Agenda Items for Next Time:

- Appropriateness and levels of acceptability
- Meaning of deadlines listed in the act
  - Interpretation of the act and timelines/deadlines for application for authority
  - Also the act states that there shall be no hardship on the part of the operators
  - This issue merits discussion by our lawyers on interpretation
- Part 91 Operators
- Corporate Transfers

#### IOU's

- Karen will check into the DOI IG report on fee collection and air tours.
- Lynne and other FAA staff will check into joint training for FSDOs and NPS field staff

Key Abbreviations Used In this Document:

ADR – Alternative Dispute Resolution  
Cat Ex - Categorical Exclusion  
CEQ – Council on Environmental Quality  
DBA – Doing Business As (corporate naming issue)  
EA – Environmental Assessment  
EIS – Environmental Impact Assessment  
FAR pt136 – Federal Aviation Regulation  
FICAN – Federal Interagency Commission on Aircraft Noise  
FONSI – Finding of No Significant Impact  
FR – Federal Register  
FSO – FAA Flight Standards Office  
FSDO – Flight Standards District Office  
GAO – US General Accountability Office  
GMP – General Management Plan  
GRCA – Grand Canyon National Park  
GRSM – Great Smoky Mountains National Park  
IOA – Interim Operating Authority  
MOU – Memorandum of Understanding  
NPOAG – National Parks Overflight Advisory Group  
OMB – Office of Management and Budget  
Op Specs – Operation Specifications  
ROD – record of decision  
SFAR – Special Federal Aviation Regulations  
VFR – Visual Flight Rules