

National Park Service
And
Federal Aviation Administration

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

June 21&22, 2005

Federal Register Announcement of Meeting

This meeting was announced in the *Federal Register* and was held at the Holiday Inn Rushmore Plaza, 505 N. 5th St., Rapid City, South Dakota

Attendance

The following NPOAG members were in attendance:

Don Barger
Barry Brayer (FAA ex-officio member)
Chip Dennerlein
Elling Halverson
Lash Larew
Rory Majenty (substituting for Germaine White)
Alan Stephen
Karen Trevino (2005 chair and NPS ex-officio member)
Heidi Williams

Other persons in attendance included:

Gerard Baker	Steve May
Josie Ballanger	Vicki McCusker
Dick Bown	Jim Marganaut
Chris Blum	Brad Mims
Tom Breen	Steve Novota
Alisha Chugh	Lynne Pickard
John Dillon	Bob Rossman
Greg Fleming	Jimmy Sam
Victor Globa	Lee Smith
Mario Gonzoles	Bill Supernaugh
Barbara Johnson	Howie Thompson
Nancy Hilding	Frank Turina
Dick Hingson	Robert Turner
Wyatt Hundrup	Paul Valihura
Gene Kirkendall	Steve Winter
Cindy Lee	Bill Withycombe

Opening Remarks

Karen Trevino, Program Manager, National Park Service Natural Sounds Program, and Chair for the 2005 NPOAG meetings, opened the meeting. Barry Brayer, Bill Withycombe, and Karen Trevino each gave a short opening statement. National Park Service superintendents Gerard Baker from Mount Rushmore, and Bill Supernaugh from Badlands, each gave a welcome to the group and a short statement about their parks and involvement in ATMP. Chris Blum, the FAA Great Lakes Regional Director gave a quick welcome and introduced himself and his staff to the meeting.

Administrative Issues

- Germaine White has resigned from NPOAG as a Native American Representative. A vacancy announcement will be posted in the Federal Register.
- Richard Deertrack has been unable to attend due to tribal commitments, but will be a representative in future meetings
- Don Barger has been made an official member
- Mark Peterson has been selected as the environmental replacement for Sue Gunn on the NPOAG
- Maria Lurie (Solicitor for NPS) will not be able to attend this meeting, and was not able to provide copies of the NPS IG report (an IOU from last meeting) because it was not released to the public.
- Howie Thompson is retiring from the NPS, and this will be his last meeting
- Vicki McCusker is a new staff member for the NPS Sounds Program
- NPS Sounds Program will be getting a line item earmark for ATMP in the appropriations bill – it is not finalized yet, but future funding is on the horizon. Also, there is a prospective base funding increase for FY07.
 - To this point 100% of the contract funding for ATMPs has been provided by FAA. Contracting delays have prevented a transfer of \$400k from NPS
- Minutes are still in draft from last meeting – corrections are still pending receipt – Comments will be given a deadline for 1 month from meeting
- Don Barger requested that the level of detail in the minutes not be lost as it is very helpful.

Update from Wyatt Hundrup on GAO investigation

- Brief recap on the Investigation to this point
- Will meet with park staff and operators in the area
- GAO is going to the parks scheduled to have ATMPs
- Probably start writing report in August
- Comments will be solicited on the draft from the agencies
- January is tentative date for public report

Group Discussion on Meaning of Deadlines for IOA Applications in the Act and Implications for the Past and Future

- There was no real deadline in the initial implementation of IOA. Originally, there was question on how we should be implementing this. Karen Trevino noted that the importance of deadlines is moot at this point.
- Gene Kirkendall discussed progress on this issue since the last NPOAG meeting.
- There are 2 types of new entrants at this point. When we break down the DB there will be 5 ways to sort : existing 135, part 91, Part 19 who not yet applied, part 91 who have applied for 135, & new entrants
- Should there be a category for existing operators who want to increase numbers of flights, such as new operators and increased operations by existing operators?
- Don Barger emphasized the importance of getting this right on an annual basis as an iterative process and to move forward.
- NPS & FAA have had bit of disagreement on the meaning of “annual” in the legislation.
- Karen Trevino reported that there was an allowance for self correction, then report on self-correction, then public comment, then a final report. There is some difference in the latest issuance.
- Lynne Pickard noted that at the last meeting NPOAG had a concern on building in what was needed for protection of park resources. We issue IOA so there is not a break in service for operators, and we would work on getting voluntary adjustments. If there was an issue on promoting park resources, it could be modified. NPOAG really wanted to see that kind of commitment (to the process, not just numbers) in the FR notice.
- In response to Don Barger’s concern about recognition on conditions for granting IOA, not just that it has already been granted, Lynne replied that can be interpreted in many ways. For example, conditions like the ability to meet quiet tech. requirements, or safety, continue to apply. An operator can have an initial grant for IOA, but an evolving safety concern that will change things, or changes in promotion of park resources, can adjust the numbers. It was not practical to do it all upfront and more viable to do in iterations.
 - Chip Dennerlein addressed the fact that Congress addressed some of these concerns in the act where it stated “you shall make it safe, you shall promote quiet tech. and you shall promote park resources.” There is a process, there are conditions, and there is the ability to revoke. Routes promote park resources if you give a map saying where you are flying.
 - Lynne Pickard responded that this is not a notice of continuing to put it off. The notice is not tying initial grants to the continuation issues.
 - Karen Trevino added that IOA has been granted for 3 years – so when is now?
 - Don Barger said that this Federal Register Notice is a blend of CYA and Reality Therapy.
 - Alan Stephen noted that it is one thing for operators to be aware of existing concerns, but keep in mind that NPS pressure on operators was found to contribute to a deadly midair collision in Grand Canyon. Be careful before you start making changes.
 - Lynne Pickard responded that we don’t intend to start making changes based on comments. Numbers are easier. We get comments and check with the operators on numbers. On other factors, get the NPS, and tribal governments,

and talk about concerns like park resources and work with everyone on what could be possible voluntary solutions.

- Communication and education is needed to start moving. Get superintendents, FSDOs, FAA, NPS, staff and public comments.
- Barry Brayer was glad that voluntary measures were mentioned. We should remind everyone that it is voluntary and we are promoting, however there are other things that can be done beyond voluntary, but it would take NEPA – and that is the ATMP. The law asked for numbers and that is what is being recorded here. Another dilemma is that we are talking about numbers vs. impacts. There are other impacts, other than resource, (socioeconomic impacts) that need to be considered as well.
 - Don Barger added that just numbers are not going to promote park protection, as the flights can be in any location. Keep in mind that the act required not just numbers but park protection as well.
 - Lash Larew wanted everyone to keep in mind the intent that the ATMP process would be done more quickly. This process was to limit what would be done until we get an ATMP.
- Karen Trevino thought it was important to realize that the terms “promote” and “achieve” are different in terms of resource protection.

Part 91 Operators

- In response to last meeting’s concern about getting information to part 91 operators, an article was published in Aviation News.
- No applications have been received since the publication as of yet.
- As a general rule, the case is closed to new applicants
- Regarding concern about small applicants who were required by FSDO to apply as 135 operators though there is clearly an exemption, the FSDOs need more education. There are a lot of FSDO’s to reach still.
- Letter of authorization is issued for part 91 (for 5 per month maximum). This is not listed as an op spec because they are not a carrier.
- The Act says that operators need a letter from FAA and from the NPS superintendent.
- Gene Kirkendall thought that the Flight Standards regional people could be reminded to contact operators and let them know that NPS superintendent approval was needed.

Report out from Significant Impact Breakout Group

- Sound is a Resource
- Air tours are park visitors
- We discussed the issues of safety and homeland security
- Significant decisions of tribes need to be built into the process
- We need to look at “what/so what” questions;
 - What are the alternatives?
 - What is a soundscape?
 - Who defines these things?
 - How is it plugged into the plan?
- Decisions regarding significant impacts need to be additive, not exclusionary

- There will be both quantitative and qualitative aspects which should be laid out in purpose and need with clear objectives.
- Disagreements will be elevated per the MOU
- Draft Matrix comments will be distributed for review by July 27, 2005
There should be a facilitator in the processes at hand
- The NPOAG group is a good forum to approach from the agencies when encountering obstacles. Although agencies don't always have the luxury of waiting until the meeting, time can be spent on email by this working group to help tackle issues in the off times. If things are not being resolved locally, this group can work it out and help make a decision to move things forward.
- A question arose on whether ATMP will include flights not on park land, but qualifying on abutting tribal lands.
- Bill Withycombe stated that the way the law is written there is not ATMP inclusion if a flight is abutting. This falls back on the intent to conduct a tour.
- Karen Trevino and Frank Turina believe the act provided some guidance for this, in the "intent to conduct an air tour" statement, but noted that counsel is looking at this to determine congressional intent.
- Rory Majenty wanted to know when the tribe is notified and when do we get to comment and contribute to this planning effort.
- This item should be on next meeting's agenda: the issue of ATMP inclusion on abutting tribal land
- The working group should review the draft matrix, but not critically. It is more important to review for clarification and questions.

Report out on IOA Modification/Verification Breakout Group

- It would be helpful to publish an article and send letters to superintendents and operators from NPS to encourage collaboration. Joint letters convey an important message that we are working together and dismiss the image that each agency is doing things differently.
- Regarding enforcement of IOA and difficulty in verifying: Dick Bown (local FSDO) teaches park staff how to identify low flying aircraft because it helps the FAA who do not have manpower to watch everything.
- The group noted informal agreements initiated by FSDO – things that promote safety end up promoting park protection as well.
- There was a discussion of what resources are – people, money, technology, physical resources. A short definition would be good to give to FAA field people.
- Any decisions should reflect gently on part 91 operators.
- FSDO should make recommendation to Gene Kirkendall in writing
- Howie Thompson noted that information sharing will only serve to streamline the ATMP when we get to that point.
- Alan Stephen added that something like this done on a voluntary basis provides a baseline for at new entrants when ATMP is in place. In cases of new entrants, there is a requirement to look at the creation of a "Noise Problem" – this language is a problem.
- Barry Brayer cautions on what the act says the duties of NPOAG are.

Corporate Transfers Group Discussion

- There was a brief recap on what corporate transfer is – company mergers, buyouts, and issuance of new flights after folding.
- According to Carol Toth – you need to sell the company, but in aviation, you want to sell assets. This is an efficient way – find out how many flights, and can track who owns those flights.
- There is a model in the Forest Service, in permits done through full EIS. An area has x number of landings, with 3-4 companies who own those landings. If one company quits, the landings go back into a pool and other companies can apply for that pool.
- Karen Trevino said that FAA has already taken the position that these numbers are not a property right. It would have to remain under FAA and go back into a pool.
- Bill Withycombe added if a company is sold, FAA has responsibility to keep safety. It is a process that ensures if the intent is to continue flying that it is continued safely. The issue at hand is if the rights are completely sold. There is no mechanism to control that sale.
- Barry Brayer noted that we are dealing with this issue and have a working group set up, but have not gotten very far yet.
- Alan Stephen cited abandonment cases in Grand Canyon: allocations can be taken back by FAA and can be reallocated.
- Don Barger said different situations are in place during IOA before the ATMP and after the ATMP. We have been discussing both scenarios.
- Barry Brayer said that in terms of impacts (in IOA) it does not change if someone transfers. The impact stays the same if same number of flights.
- Don responded that impact has not been determined yet because not analyzed yet. We cannot directly determine impact until we have ATMP. The notion was to continue without a break in service, the commitment was to an operator, not to a number of flights. It was not based on impacts, but rather on continuation of service until ATMP. Bob Rossman also added that this continuation of service was derived for the protection of operators, not the industry. There should be a basis for competition and not unlimited continuation of service.
- Elling Halvorson believes it would be grossly unfair to not to be able to sell a business if you are operating under IOA. Additionally, indecision on this issue may devalue a business.
- Alan Stephen noted that if you have a seasonal business there is a break in service regardless. The transferee should sit down with the superintendent and discuss a business plan. If you prohibit these transfers you are going to hurt the operators badly.
- This problem is fairly infrequent, but when it happens, it is a big deal. Transfer/sale is a private action; the sale has to be approved, but can only be disapproved is for serious safety reasons.
- It is very clear and compelling from the air tour industry that this concept needs to be defined. The main issue to address from FAA is the ability to track the changes in flight numbers. The policy is not based on impact to resources, but impact to operators. Ultimately, this will be up to lawyers.

- Barry Brayer clarified that the law provided IOA to be granted with the pre-April 2000 numbers until 180 days after an ATMP is implemented for that park. We have not yet determined limitations, but when we do, we have to come up with a competitive process for implementation at that time.

Group Discussion on Tribal Issues

- Steve May gave a brief update on tribal consultation: Lake Mead, Badlands, Mount Rushmore, and the Hawaii parks has held 106 consultation with some Native Hawaiian groups. Sioux were the only ones as a cooperating agency because of abutting land. Legal experts in FAA recently clarified that the act does not intend the development of ATMPs for just tribal lands. For example, we can only do one for Badlands and Pine Ridge – not just Pine Ridge. NPS legal counsel has not yet provided an opinion.
- In response to a question on whether the combined ATMP includes just that portion of the reservation that includes air tours, or the entire reservation, Steve May said that the interpretation is just the land that is affected. We held an alternatives development meeting for Badlands to discuss the implementation of an ATMP in the Pine Ridge area. At that meeting Steve May mentioned that we would be doing Pine Ridge but as a separate ATMP. Legal counsel has ruled differently and said they would be combined. We have an applicant over the south unit of Badlands and that indicates that Pine Ridge Reservation should be included with the park ATMP.
- Bill Supernaugh stated that by adding that extra acreage in the plan it will add significant time and money to the project.
- Karen Trevino suggested that doing a supplemental EA could be a method, but Steve May replied that FAA solicitor Hans Bjornson was not keen on that idea because it treats the entities separately and not jointly as the act intended.
- Barry Brayer added that there could be incorporation of EA at a later date
- Jimmy Sam suggested getting all 3 governments' attorneys together to determine a solution (Rory Majenty agreed with this). A process has been created that does not give adequate recognition to the tribes' ability to regulate their own land. Jimmy Sam encourages this topic to be an item of discussion with the agency heads. Separate plans give the implication of two different management schemes. Assets on tribal lands that are under management authority of the Fed. Gov. are still a resource asset to the tribe and need to be protected under the same level of responsibility.
- Lash Larew suggested a provision for an ATMP that differentiates rules by units.
- Rory Majenty added that his tribe has an ATMP because they are in the air tour business. Native Americans have safety concerns and want to protect sacred areas of their land. ATMP is very important to us, but we would not be favorable to having an ATMP for our entire reservation. Our land is sacred and we don't want people going in certain areas.
- Chip Dennerlein said that the plan has to be NEPA and the tribe must be a cooperating agency. Levels of protection need to be inclusive, and not diminished to lowest denominator. Airspace ownership is an issue; the US is not going to give airspace to another government entity within the boundaries of the country.
- A major underlying question is who determines impact when terms of agreement call for "undisturbed management"

- Rory suggested that future tribal contact for consultation should be initiated by contacting the TIPO office for the tribes.

FAA Enforcement Procedures for IOA & ATMP and FR Notice Update

- Gene Kirkendall gave a presentation on violations and enforcement procedures
- A complaint has to be enough for the inspectors to investigate, and has to have a violation that is enforceable. “May” is permissive. There is a difference between careless and reckless: Careless – unintentional, Reckless – intentional
- The Current regulations are not enforceable – Gene is going to amend them. We need to do some more rulemaking. Op Specs are not enforceable. There will be an amendment to Pt 135 requiring reporting which will be subject to action, making IOA enforceable
- Most complaints or violations the FAA receives are testimonial or hearsay (written or verbal) and is not good evidence.
- Documentation is very important in court cases and enforcement.
- Everything is tracked from the date of violation
- Like innocent until proven guilty, violations are “may” until proven in court.
- Violation is not complete until litigation. Does not mean action is not taken – just that it is not complete.
- That is the formal process of enforcement. We have other avenues. We have corrective action that can be taken in lieu of formal action. Many times things are overlooked not out of hiding information but by simple mistake.
- Education and voluntary measures are the most successful avenues. Unless there is an egregious issue we would probably take a different route. If issue is compliance, voluntary cooperation is much better.
- Gene Kirkendall suggests that the FSDOs have meetings with the park service. The park can help us get the details we need.
- An operator may have license for one park but will be considered a new entrant in another park
- Op specs allow for a letter of operation in certain areas – it can then be enforced through revocation by FSDO
- Chip Dennerlein noted that an appendix to the op specs could be used to include flights, routes, numbers, etc.
- Bill Withycombe said that FAA will be adding ATMP training to the FSDO training program in Oklahoma City. There should also be consideration of classes to train our inspectors.
- Dick Hingson requested to see the Federal Register notice IOA list sorted by park.
- Gene’s work has been monumental in moving this process forward and if there is anything else NPOAG members can think of that we can do as a group (NPS/FAA) in terms of enforcement/compliance with IOA, please think about it and give any recommendations.

Update on ATMP's Currently Underway

- Barry Brayer discussed doing a quicker ATMP at a park that is not controversial and one that does not have much impact as a whole. This would have an Aviation Rulemaking Committee (ARC) approach to ATMP Development.
- Elling Halvorson said that the NPS knows best which park units are the best to conduct the ARC ATMP approach. Perhaps they could recommend a few and we could decide from there.
- Barry Brayer has been talking to the DSC to pick a location for the ARC ATMP decision. Barbara Johnson will fill us in on that.
- Don Barger wanted to note that a park with a relief of 4 feet may still have significant air tour interest (like everglades), so don't assume that great variation in landscape means an easy ATMP.
- Chip Dennerlein raised the question of Navajo land being exempt from an ATMP because of the abutting Grand Canyon clause. Does this exemption include parks encompassed on the Navajo land such as Canyon de Chelly, Navajo, and Petrified Forest (he thinks there are 9 units that could be affected in this way)?
- Karen Trevino found it highly unlikely that the act was intended to exempt an entire park unit.
- The current reporting capability and requirements for record keeping is horribly inefficient. The main issue with Grand Canyon is that there is a fee associated with the air tour flights. Norm Elrod in the Las Vegas FSDO is working on an online system for self-reporting and correction.
- Barry Brayer will discuss with Gene Kirkendall the ability of NPOAG as an ARC to be part of the IOA enforcement drafting.

ATMP Project specific Accomplishments

- Steve May gave a presentation in which he gave expected dates for completion and review.
- There is work with Volpe to get the Badlands & Mount Rushmore reports back before 9/30/05.
- The Western Pacific Regional FSDO has concerns about the safety of alternative routes for Lake Mead. There may need to be a transportation only alternative that deals with the fact that many applicant flights were for transportation through the park and were not for tour purposes. If there is a safety issue we might have to rework some of this alternative and talk to the park about adjustments. John Dillon added that there needs to be more communication with operators in that area.
- For Hawaii Volcanoes, there is a 30-day scoping period that will be announced in a Federal Register notice. The FR notice will be available to the public starting from 8/1/05; it will be for written comments only.
- Operators from 3 Hawaiian parks (KAHO, PUHO, PUHE) have withdrawn their applications.
- Hawaii Volcanoes is the only Hawaiian park switching from an ATMP EA to an EIS, because the views of native Hawaiians, local communities and controversy from the 106 standpoint were conducive to it. The collaborative processes led to more comfort available in an EIS. The nature of the parks also affects the tourism industry and

methods in that Haleakala is static in its tours while the air tours at Hawaii Volcanoes alters as the lava moves – which is the tourist attraction.

- The local Hawaii FSDO cooperated wonderfully with the NPS staffs for the three western Big Island parks and operators to come to a win-win situation for all involved parties. ATMPs are not now required for these parks because the ATOs returned their IOA permits and agreed to fly ½ mile or further outside the park boundaries.
- The FY05 FAA goal is the development of six draft ATMP reports, and there are ways cut the timeframe without damaging the process at all. Everyone agrees that batching chapters will cut review time and be an overall benefit.
- Don Barger asked to review the alternatives, and documents that have already been developed to give NPOAG a chance to see the NEPA process and progress to date. The Purpose & Need section is the most complete piece to date and can be shared by email.

Update on ATMP Implementation Plan

- Steve May and Bob Rossman gave an update on developments in the implementation planning process since the last NPOAG meeting and mentioned that an ATMP program review will be held with Volpe just following this meeting (6/23-24/05)

Update on Grand Canyon ADR - NPOAG Working Group

- We are through the nomination and evaluation process of working group members and letters have been mailed to the participants.
- The first group meeting is in Flagstaff on 7/13-14/05
- It will be conducted similar to NPOAG meetings. The GRCA NPOAG will provide advice on the overflights plan and ADR process. There are 20 members – some interspersed with the NPOAG group – chaired by Karen Trevino & Lynne Pickard with Lucy Moore handling the ADR aspect.
- Barry Brayer will be Lynne Pickard's alternate on the panel. Joe Alston, Grand Canyon Superintendent, and Steve Martin, NPS Deputy Director, will also be at meetings.
- The timeline is approximately 3 years to get us to the April 22 2008 deadline.
- Review from this NPOAG is welcome.
- There has been lots of group effort from both agencies at many levels ranging from high-level agency representatives to the actual people doing the work.

The Quiet Technology Rule

- The rule-been reasonably sufficient in granting consideration for incentives for operations to meet requirements for fixed-wing or quiet technology aircraft.
- Aircraft have been identified that meet this requirement.
- It complies with noise limitation rules
- There was discussion about implementing the Grand Canyon Quiet Technology (GRCA QT) rule for other ATMPs. ATMPs other than GRCA or would be subject to other considerations, but there is a responsibility for NPOAG ARC to make recommendations to the final rule on this matter. Is NPOAG inclined to recommend that we pursue the QT rule in GRCA do you want a more extensive briefing/technical presentation on this before consideration?

- Alan Stephen says there was QT testing conducted and different aircraft models can be further tested via flyover scenarios. This is a technical discussion that is based on data model validation for aircraft types.
- Lash Larew thinks that models will be different outside the GRCA.
- Chip Dennerlein is inclined to say that we should go with the best available technology, but an overview of that would be good for this group. This is going to be a matrix approach to data points and models. Factors to include are number of passengers and sound level – more passengers = less flights
- Lynne Pickard said the developers thought the model would be applicable to parks other than GRCA.
- Don Barger felt that there were some pieces of this rule that he would like to investigate before signing off on the concept as applicable to other ATMPs. He has concerns akin to clean coal technology in cases like this. The reduction in Flights and thus noise may be true under IOA, but not under ATMP. More passengers equaling fewer flights is not exactly QT. The object is to reduce the number of instances, but if an operator can, they will fly more flights of a larger and possibly noisier aircraft.
- Alan Stephen thinks conditions need to be granted to larger craft to reduce number of intrusions.
- Lash Larew stated that overall we need a QT document considering altitude, corridor, and size and weight of aircraft. We need to know that we can get preferential treatment for providing quieter aircraft and get a better investment for the better product and that we can charge a little more for that kind of investment in higher quality technology.
- Barry Brayer added that the law requires that there be a QT incentive in every ATMP, so we need to determine the impacts and this will make a difference when we establish the incentives. It may be an increase in caps, avoiding restrictions, or measures that we may have as limitations may be reduced in the incentive process. If there is no incentive, QT is meaningless. Operators need to know if it pays to have better equipment. Can we consider endorsing this, at least for the first handful of parks?
- Karen Trevino stated that the NPS is not taking Volpe's recommendations verbatim, and need to have our acoustic staff evaluate this document as well before endorsing it.
- Alan Stephen wants everyone to keep in mind that this technology needs to be reasonably achievable pursuant to the law.
- If there are incentives that allows a commercial advantage to QT it will force competitors to seek that advantage as well.
- Barry added that the benefit is the reduced impact to the park, and if there is no substantive reduction in incentive, we will not reach a lower impact.
- We should also think about ways to let operators know that this is out here and that this will be an aspect of the park ATMP. Need to reach others in the same manner as IOA notification (publications).
- Karen Trevino noted Yellowstone mandates for quieter/cleaner machines as the only alternative. Some parks may only allow QT machines to fly.
- A shorter route could be a big incentive in reducing the time it takes to get to a place and a fuel cost by running longer route to get around to a vista. Karen Trevino asked

the NPOAG members to think about this process and email other possible incentives to the agency chairs.

- Lash Larew noted that as new technologies evolve, the FAA would allow those as QT. Alan added that older model aircraft could also come under that if you can modify the craft. Don Barger suggested that this should be a list you can only add to not take away as the technology improves.
- Elling Halvorson said that there is a difference in operators and the development of new craft – the implementation on this technology will be based on the success of this standard in the industry. It prompts the industry to move to QT. We are asserting our influence on the manufacturers. We are working with Bell and I worked on the Euro-Copter development.

Volpe Presentation

- Greg Fleming gave a brief presentation on the Dept. of Transportation's Volpe Center.
- The Volpe Center does environmental measuring and modeling – noise and air quality
- Volpe has 500 people – set up for contracting out to other government agencies
- Volpe provided modeling support for the QT legislation.
- Greg Fleming hates to use a broad brush for applicability across the parks. Something that is constant is the need to collect a limited amount of data to answer the question: are we representing the aircraft properly with the model? We are just starting to compare the actual data with the control data from the Fitchburg Study to parks like Mount Rushmore, Badlands, and the Hawaii Parks. I think we are on the right track, but would not want to put aside source measurements in the park to do some reasonableness checks.
- In response to the question about this being a valid way to look at defining QT, Greg Fleming said that there is a distinct line between what is QT and what is not. This application is the best representation of the aircraft. There are some examples of overstatement though. The vista liner models were based on takeoff measurements. The reductions did not carry through to level flight and approach. In a park condition a level flight is more applicable.
- It would be advantageous to add additional craft to the model, as in the Fitchburg Study, to add to the confidence level of this technology. It may help facilitate future testing if lists of aircraft that meet the standard, do not meet the standard, and are pending testing are released in conjunction with the QT announcement. Other manufactures will look at the list and try to get their craft added for assurance and sales purposes.

FINAL CONSENSUS – NPOAG recommends the standards used that meet the QT standards in GRCA quiet aircraft technology will be adopted as QT standard for all parks, establishing the standard for Quiet Technology in ATMPs.

Appropriateness and Levels of Acceptability

- How you make decisions in relation to the appropriateness of any activity is tied into the significant impacts discussion. Don Barger voiced a concern about creating a

process that usurps the management capability of the NPS. There are problems with the drafting and wording of the law, but he thinks the intent was to leave the jurisdiction to the agencies as they existed before. The agencies are substantively different in their objectives. You can't always quantitatively evaluate an activity and the impact only to say that it is or is not appropriate in an area. There is concern that one agency's processes will undercut the other agency's basis to manage their authorities. It is what we talked about yesterday in the inclusion of tribal consultation as a full cooperator. The essential underpinning of park protection is the ability of the park to manage its own resources

- Karen Trevino responded that appropriateness comes from NPS management documents. The act will not forgo either of the agencies statutory authority and jurisdiction.
- Don Barger asked if in the end, you have a disagreement, how is the decision made?
- Barry Brayer responded that the final decision makers are the FAA regional administrator and the NPS Regional Director.
- Bill Withycombe added that in cases of tribal consultation, we want to get lots of input, but we need to get the process done in the end. We may consider the input we may change some of our plans. In the end they can take us to court; we have been sued before.
- Don Barger added that input is different than decision-making. In the end, are we actually dealing with cooperative agencies or contributing agencies? This decision is in determining how the agencies work together.
- Chip Dennerlein noted that appropriateness is very real and real places help to resolve them. It is an important discussion to have in the philosophical sense. We have come far in negotiations. Ultimately this will be decided on the ground – not in the abstract.
- Lash Larew also reminded the group that air tour passengers are visitors too, and deserve consideration when considering the values in the park. In some cases, consider that some air visitors are not appropriate for ground tourism. There may be places in parks where the air tour visitor may trump the ground visitor.

Presentation on the NPS's Denver Service Center (DSC)

- Barbara Johnson talked a little about the DSC and their functions such as
 - Mapping projects
 - Visitor use and quality
 - Has put in proposals for DSC to help with ATMPs
 - DSC is to NPS as Volpe is to FAA
 - GIS can be done in house or we can contract for it
 - We do EIS for all our general management plans
 - DSC has 257 employees, the planning division has 41
- We are very accustomed with combining conceptual plans into an EIS document
- We do some mediation as in the stake holder process and ARC, but not much. We do more facilitation.
- We use a process called choosing by advantage, which is an NPS method to allow smaller/disadvantaged parks to actually compete for project funding and resources with the larger more public park units

- DSC also deals with tribes on a regular basis and has anthropologists on staff to help in this process.
- Karen Trevino responded to John Dillon that the process for determining GRCA ADR stakeholders was having the agencies sit down and develop eligibility criteria. We then put out a notice to the various publics and received a list of applicants. Subsequently we solicited help from different sectors to determine final eligibility. It was a dual agency responsibility.

Requirements for mapping project

- Have maps (including parks) available for aviation purposes
- If mapping is to be included on aviation maps it has to go through FAA
- Karen Trevino commented that there have been complaints from parks about pilots not knowing where are park boundaries.
- Alan Stephen added that the data should be available in GPS databases.
- FAA needs to bring that back to their people (Gene Kirkendall specifically) and inquire about the availability of mapping on the aviation maps and databases.
- John Dillon noted that an ATMP would define the map anyway.

Recap of Major Points:

- Agencies will put out FR notice requesting applicants to replace Germaine White
- Bob Turner will send recommendations to Gene Kirkendall regarding approaches taken in the past with respect to partnering with FSDOs and park staff.
- NPOAG will be used as an ARC for the 136 enforcement rule
- There should be a tape recorder at future NPOAG meetings
- There will be a review with Hans Bjornson on the issue of tribal lands
- FAA/NPS will create a joint letterhead for correspondences
- A letter will be sent to NPS superintendents and operators encouraging collaboration
- A FR notice on the Quiet Technology standard will be published
- Karen Trevino will send a definition of NPS Resources to Gene Kirkendall
- Agencies will come up with language regarding IOA compliance
 - This would be a continuing feature of IOA using QT. There is a good model in Haleakala with Dave Chevalier demonstrating how discussions can be fruitful.
 - Chip Dennerlein pointed out that, with IOA and requirements, we can grab at low hanging fruit without tackling the whole tree.
- Issue of corporate transfers need lawyer input.
- With notice out on IOA permits, Gene Krikendall should come back and classify the types of comments that are given. Take the NPS list and do it all together, distinguishing between a complaint and a comment.
- Barry will put a notice out on turnover terms
- Comments will be made on the draft matrix before July 22
- Comments on the NPOAG notes will be due within 30 days of the draft posting
- A big map (possibly provided by DSC) detailing park units, stateliness, FAA/NPS regions, and major native landholdings, will be at the next meeting for reference.
- There will be a national standardized approach for getting stakeholders

- It was agreed that NPOAG working groups would work on draft documents by telephone to help make decisions during an impasse or evaluation process
- There will be a checklist from the meeting minutes
- NPS will send the Purpose and Need sections from the initial EAs to the NPOAG members
- IOA lists will be sorted by park

Agenda Items for Next Meeting

- Competitive bidding (Alan, Elling, Barry, Heidi)
- Improvements for reporting
- Conduct breakout sessions early each day of the meeting. Overlay breakout sessions because some groups overlap membership
- There will be a report/statement on what is abutting land and what is not
- There should be a discussion on cooperating agencies (FAA, NPS, Tribal Govs)
 - Under NEPA and CEQ, the other abutting governments are cooperators
 - How do we approach a shared boundary and invitation?
 - We do consult with them... but how?
- Breaks will be scheduled at shorter intervals, but less time for each break (approx 50 mins between breaks)
- Establish a sub-committee to discuss counting the flights – discuss with Gene Kirkendall and come with a discussion topic next time (Elling, Alan, John Dillon, Gene)
- What does the term “annual” mean in the act?
- Identify sections of the act which create ambiguity and problems
 - Recommendations to the administrators are appropriate; recommendations to congress are not.
 - Wyatt Hundrup thought it would be nice to have a list from NPOAG of things that need to be changed in the act
 - Legislative change is the last course resort.

The Fall Meeting will be held in October or November at a location to be determined through discussion at a later date.

Closing remarks

Bill Withycombe: We have again, had a successful meeting. There is lots of interest – bear with us and try to help where we need it. I have significant goals that I am held to. This NPOAG support is very valuable. I appreciate all of you and your comments & involvement.

Barry Brayer: I want to emphasize how important this group is and does and how much it benefits us, especially the working groups. These are the areas that are roadblocks for us. The input we get is tremendously helpful. I want to thank the public and the public process. I want to also thank Karen and her staff for the arrangements and the logistics. I also want to note that getting out on the ground and in the air is really helpful.

Karen Trevino: I want to emphasize the importance of visiting parks. Resources and protection for future generations are the reason that the parks exist. For us at NPS this is our life.

Public Comment

Nancy Hilding at the local Audubon Society:

FAA will not get away with FONSI. My concern is in air tours over Forest Service Wilderness area. The only thing the ATMP is looking at is impact to Mount Rushmore and that is unacceptable. Mitigation needs to be done at the beginning not during scoping. What about commercial airline flights? I know Karen Trevino does not want to touch this issue, because she is concerned about cumulative impact in commercial aviation. In Badlands, there is a black-footed ferret reintroduction on the Forest Service land and Indian Creek was recommended as a wilderness area. When you limit your scope to NPS land, do you think that people only want to tour in the park? If you don't involve these entities – you will be in an EIS. You need to think about cooperating with other agencies. Purpose and Need is important, but it has to allow for an option that has no air flights. We want an alternative that makes for no air tours and possibly no overflights of any kind. There are also Native American rights and cultural issues in South Dakota that you don't understand. These people are cooperating agencies and not only that but you should give them money to participate in the process as well.

Ray of Eagle Aviation in Spearfish, SD:

I had fixed wing equipment, and we were an operation until this (ATMP/IOA) came into being. There is question on Existing vs. New Entrant. I want you to consider the fact that as a fixed wing we are seen but rarely heard. We are providing a service to the public that is in demand. We have positive comments made to tours and we are low impact on the environment. This is what people want to do. It is clean; we leave no trash behind us. We have been with the Air Tour Safety Council for a long time, and we have worked with Bob as the local FSDO. Maybe there is some way we could look at minimizing some of the impact because we want to protect and continue to operate in the area. We are a 135 operator (bought from previous operator) and started from scratch under Eagle Aviation. We may not have applied for a new 135 certificate because we did not have appropriate guidance back then. We need to move forward as a new entrant but I would like to be considered an existing operator. In response to Barry Brayer's question about surveying air tour clients; I would love to survey our clients.

John Dillon of Grand Canyon Airlines:

This was the most effective of all the meetings I have been at. Gene has again been a huge help. It took a lot of arm-twisting. The IOA issues have come a long way. The man who spoke before me from Eagle (Ray) is a perfect example of the issue of transferability. I think Carol Toth was incorrect in her interpretation. Language and definitions are important. It would make sense to have the lawyers at these meetings. This group needs to make recommendations. Lake Mead's IOA is a big issue. We need resolution because it is not going to go away. Make it a priority. The concept of a "guinea pig park" done with the ARC process is excellent and I will fully cooperate. I encourage you to explore that positively.

Dick Hingson of the Sierra Club & Grand Canyon Trust

I suggested a meeting at Bryce Canyon. There is special need to address noise problems in that area and several parks are in question. We speak of the word “Annual”. At least I am hoping that by this you have a mechanism to review what we have done this year. What happened in the park? Have annual accountability in what will be a long-term involvement in the ATMP program. I am happy to see that the NPS has finally gotten the information and seen the applications. I am pleased with Gene Krikendall’s work though as far as the NGO’s we have not gotten our requests filled for information to date. Thank you for posting the minutes to the NPOAG website. As far as informing the public, I made a request to sort the FR notice by park. Put a web link in if you choose not to have the table. Regarding the publication in Aviation News, I was hoping to see evidence that the agencies are working together. I was disappointed to see an article on ATMP that showed only photos of the Grand Canyon – a park that is exempt from that process. I would request a little bit of cross checking on this in the future and make sure that NPS comments on this stuff before publication. Also it was really encouraging to see the publication in the first place.

Steve Winters of M&S Aero

1. Both agencies (FAA & NPS) need to keep in mind they have different goals, missions and legal mandates, but need to work together cooperatively to create ATMP’s where all can live with the product. All new things need tune-ups and upgrades and ATMP’s will be no different. I sense there is still some hostility between the agencies from an authoritative standpoint. This seemed more prevalent in yesterday’s Native Lands discussion. All players need to be included.
2. Gene is apparently going to be drafting guidelines so all FSDO’s have the same info when dealing with IOA’s. Right now, the Salt Lake FSDO still doesn’t have a clue and say they don’t have information regarding this. Consistency is the key to administering the program so all are on an even playing field.
3. I was under the impression that flight numbers could not be increased during the IOA. This is specified in FAR 136. Several months ago, we were asked to re-evaluate our numbers and could adjust them; however the FAA letter stated they could not be increased. I know specifically that one operator has over 300 more flights authorized on the FR notice than his original IOA granted in April 2003. How did this happen? Numbers should go back to the original IOA. I know this because a FOIA request got the original documents.
4. Again, the key points to remember are the agencies have different goals, missions and mandates. These should be used to benefit the product while not jeopardizing the role and responsibility of each agency.