

**Grand Canyon Overflight Noise  
Government and Stakeholder Public Meeting  
February 10, 2005 – 3:00 pm – 6:00 pm  
Mesa, Arizona**

**Summary of Questions and Comments**

**Facilitator:** Lucy Moore

**Recorders:** Ed Moreno and Tahnee Robertson (Lucy Moore Associates)

**Background:** This meeting was convened by the Federal Aviation Agency (FAA) and the National Park Service (NPS) for the purpose of informing the public, stakeholders, and sovereign tribal governments about three issues: 1) selection of the model to measure noise at the Grand Canyon, 2) stakeholder assessment process, and 3) proposed process for working with stakeholders and tribal sovereign governments to resolve overflight noise issues at Grand Canyon. Participants included representatives of federal, state, and local government; tribal government and communities; aviation interests; conservation and recreation interests; and interested members of the public.

**Welcoming remarks:** Joe Alston, Superintendent, Grand Canyon National Park, welcomed attendees and introduced those representing the Park Service (NPS) and the Federal Aviation Administration (FAA). Sharon Pinkerton, FAA, Assistant Administrator for Aviation Policy, Planning & Environment and Paul Hoffman, U.S. Department of Interior, Deputy Assistant Secretary for Fish and Wildlife and Parks, expressed appreciation to all those present and hopes for a productive meeting.

**Agenda Review:** Lucy Moore, facilitator, reviewed the agenda and highlighted the three topics to be discussed: 1) selection of the model to measure noise at the Grand Canyon, 2) stakeholder assessment process, and 3) proposed process for working with stakeholders and tribal sovereign governments to resolve overflight noise issues at Grand Canyon. She invited participants to ask questions and raise concerns following presentations on each of these topics.

**Model Selection -- Tom Connor, FAA, Manager Noise Division, interagency technical working group:**

Tom explained that the interagency working group had accepted the recommendation of the Federal Interagency Committee on Aircraft Noise (FICAN) to use INM 6.2 as the model for noise measurements at the Grand Canyon. Although both INM 6.2 and NMSIM performed equally well in noise detection, FICAN found INM to be the superior tool based upon its long history of development, extensive aircraft source database, and widely available user support. The interagency technical working group will continue to work to reconcile these inconsistencies with NMSIM. Monitoring will begin as soon as possible – hopefully within a few months -- to collect baseline data for use by the model. The NPS proposes to collect winter and summer ambient data.

### **Questions and Concerns – Model Selection:**

Noticeability v. Detectability: A participant was interested in the measurement of noticeability of noise and efforts to gather data on noticeability, or the degree to which the sound impacts a visitor’s experience. Some participants felt it was important to have this data on noticeability in order to know how to address overflight noise issues at Grand Canyon.

Response: The FICAN decision did not address the merits of noticeability versus detectability, but only evaluated the two noise models on the ability to calculate both. The models use the equations for noticeability and detectability that have been defined by the NPS as part of the two-zone system established in the notice of agency policy, “Evaluation Methodology for Air Tour Operations Over Grand Canyon National Park” (64 FR 3969). (FICAN recommendation can be found on the website for the overflights collaborative process, <http://overflights.faa.gov>)

Aircraft Noise Data Collection Process: Another asked about the data collection process and whether it was the same as is used at airports.

Response: It’s not the same as used at airports. A specific protocol for measuring noise in a park is necessary, to account for factors like line of sight, topography, temperature and humidity. The model will be able to consider different scenarios depending on these and other factors.

There were also questions about the noise certification tests of aircraft to gauge noise levels and characteristics.

Response: This data source is highly reliable, but does not take into consideration climate, temperature and atmospheric conditions.

### **Stakeholder and Sovereign Tribal Government Assessment – Lucy Moore, facilitator:**

Lucy described the process that she and her team (Ed Moreno and Tahnee Robertson) used to design and conduct the assessment of 46 individuals, representing the full range of interests concerned with overflight noise issues at Grand Canyon National Park. The purpose of the assessment was to help the two agencies determine the feasibility of proceeding with a collaborative process with stakeholders and tribal sovereign governments. They were also interested in any suggestions about how such a process might be designed and managed. Lucy, Ed and Tahnee briefly summarized the results of the assessment. This report was mailed to a database of over 140, and was handed out at the meeting. Lucy emphasized that the document was not intended to be a comprehensive discussion or a complete history of the issues, but rather it is a compilation of what the interviewers heard from those they interviewed. It gives a picture of the landscape of interests in overflight noise at Grand Canyon at this time. The assessment report can also be found on the project’s website at: <http://overflights.faa.gov>

### ***Questions and Concerns – stakeholder assessment:***

#### Comments already received prior to the meeting:

Lucy reviewed for the group the comments already received on the assessment report. These included:

- Concern with the use of the word “zealot”
- Necessity of honoring laws and court decisions; fear that “balance” and “equity” mean eroding decisions and rulings already in place
- Correction that motorized rafts *were* represented in the interviews
- Request for more history and agency mandates about resolving the issues
- Need for a schedule and timeline for the collaborative process and eventual implementation of the Overflights Act of 1987 within the April 2008 timeframe

#### Need for Resolution of Threshold Issues:

A participant offered a list of issues that are resolved (and should stay resolved) and a list that need to be resolved for a successful resolution. Those that are resolved in his opinion are: the selection of the model, and the definition of “substantial restoration of natural quiet” and of “day.” Among those issues which need to be addressed are: date and schedule for achieving substantial restoration, a geographic division of the canyon, the final quiet technology standard (now overdue), operations data and trends through 2004 (number of flights, etc.), figures on non-tour aircraft noise, and historic shortfalls from the 1997 base year on restoration of natural quiet.

### **Collaborative Stakeholder Process – Lynne Pickard, FAA, Senior Advisor for Environmental Policy, and Karen Trevino, NPS, Manager of Natural Sounds Program**

Lynne and Karen described the evolution of thinking within the agencies about the appropriate design and structure for a collaborative process with stakeholders and sovereign tribal governments. They emphasized that in no way would this collaborative process replace the government-to-government consultation process between the federal agencies and tribal governments. After reviewing the stakeholder assessment described above, the agencies’ representatives concluded that a working group under the National Parks Overflights Advisory Group (NPOAG) would be the most practical, efficient and appropriate forum for the collaborative effort. Bill Withycombe, FAA Regional Administrator, presented information on the NPOAG, and suggested that those interested in the Advisory Group consult the website: [www.atmp.faa.gov](http://www.atmp.faa.gov).

Lynne and Karen explained that NPOAG offered a model and a set of responsibilities that were a good match. Their mandate includes considering both issues of safety and the environment over and near national parks or tribal lands. Their membership includes FAA, NPS, tribal governments, and the aviation and environmental communities, similar to the makeup that is anticipated for the Working Group. Although there could be some overlap of membership on the NPOAG and the Grand Canyon Working Group, members would be selected through a nomination process and chosen based on their strengths with

respect to Grand Canyon issues. All participants would preserve their status; membership on the Working Group would not change their authority. Finally, the FAA Administrator signed an order establishing NPOAG as an aviation rulemaking committee, which means that the Working Group could undertake rulemaking at the appropriate time.

In the assessment process stakeholders had expressed support for the NPOAG model and had also asked for a process that could be easily created and yet have credibility and authority. An NPOAG Grand Canyon Working Group met these requirements. FAA and NPS envision three general phases of a Working Group: 1) participate in the review of the noise analysis and have confidence in the results, 2) consider and recommend what additional measures should be implemented to complete the mandate in the Overflights Act, and 3) participate in the development of regulations or other mechanisms necessary to implement recommendations. An NPOAG Grand Canyon Working Group has the flexibility to transition from one phase to the next. There is also, importantly, some funding available to establish an NPOAG working group. Lucy reviewed with the audience a draft proposal from the FAA and the NPS that outlined the purpose, commitment, structure, membership, operating procedures, and groundrules for the proposed Working Group. [attached] She opened the forum to questions and comments, emphasizing that this proposal was a draft and that the agencies were extremely interested in the reaction of the stakeholders, tribal governments, and the public, both at this meeting, or through other means of comment.

### ***Questions and Concerns – Proposed Collaborative Process***

#### Vision Statement by the two Agencies:

There was discussion about the statement adopted by the two agencies for their interagency working team. Some were confused and thought that this statement was created for the proposed Working Group. They felt it was inappropriate because of a lack of commitment to implementation of the Overflights Act, and what they perceived as an equity issue among the various uses of the park.

Response: The protocol handout at the meeting erroneously identified the statement as a “mission” statement, instead of a vision. It is the NPS and FAA shared vision to be able to substantially restore natural quiet under the mandate of the Overflights Act while still providing a reasonable opportunity for visitors to experience the Grand Canyon safely by air tours and without adversely affecting the national aviation system. The vision is that of the federal agencies and is not a condition for participation in the Working Group.

#### Scope of Work:

Participants asked for clarity in the tasks that would be put before the Working Group. “I’m less interested in the shape of the table and who’s invited than in what is being served,” said one. He added that appointing what in effect is an advisory committee to an advisory committee is not promising, but rather like a spiral going nowhere. Another participant suggested that it would be difficult to know whether it was worth her time and

energy to participate without knowing more details about the tasks assigned to the Working Group.

Response: The general tasks that have been outlined in phases are review of and confidence in the noise analysis, consideration and recommendations of measures to complete the Overflights Act mandate, and rulemaking or other necessary actions to implement recommendations.

Schedule, Milestones, Deadlines:

There was concern that the Executive Order deadline of April 2008 was not going to be met unless the agencies craft this stakeholder process with tight deadlines. Participants expressed concern that the 18 months for the collaborative process was too long, and would not allow for meeting the deadline, given the implementation steps that would need to be taken following the group's recommendations. Others felt that this was too rushed for a genuine collaborative process to be effective.

Response: The agencies are exploring ways to shorten the 18-month noise analysis and recommendation phases. The agencies agree that ambient data must be collected in Grand Canyon, and given the seasonal variability that exists, the timeframe for a collaborative process must accommodate the need for scientifically credible data. Any aviation rulemaking activity would necessarily add more time following recommendations.

Commitment to implementing the Overflights Act of 1987:

The first obligation of the agencies and the Working Group should be the substantial restoration of natural quiet, as mandated in the Overflights Act of 1987, said several participants. There were requests that the agencies create a redundant schedule for the process, making clear that there is a "Track B" option for meeting the letter of legislation and court orders regarding overflights noise at Grand Canyon. In other words, if the "Track A" option – collaboration with stakeholders – fails to meet certain deadlines or produce desired results, the agencies will have a contingency plan to shift to a traditional regulatory process, a NEPA process, whatever is necessary to arrive at the desired outcome in April 2008.

Response: Agency representatives reiterated that it is not their intent to circumvent any court decisions or congressional mandates. They said, however, they understood the concern and responded that Track B would consist of the two agencies following traditional Federal procedures for developing proposals and regulations inhouse and presenting them to the public for comment. They added that past experience with that process has not worked well for the overflights noise issue. With the help of the US Institute for Environmental Conflict Resolution (USIECR), the agencies have agreed to engage the multiple interests and the tribal sovereign governments in the recommendation and decision-making processes. In this way they hope to build confidence in the data, as well as in the final product.

Leadership role for NPS:

There was also a request that NPS take a strong leadership role in the process, offering in the beginning its preferred options for resolving the issues. Some urged the Park Service to reiterate their preferred alternative from the 1994 Report, Map 10.2, which divides the Canyon into seven sections.

Notice:

Solicitation for nominations to the Working Group should be as wide as possible. Interested persons should be contacted individually rather than through a Federal Register notice alone.

Working Group Composition and Membership:

There were many comments about numbers and representation of members on the Working Group. Specific suggestions were that:

- The Department of Defense and commercial airlines be included.
- Those who sit on the Working Group be knowledgeable about the Grand Canyon.
- There should be a balance of interests on all sides of the issue, and it should be clear who is representing which interest.
- Tribes should be able to participate as members if they choose, without giving up any right to government-to-government consultation with the federal agencies.
- Anyone sitting on the Working Group should be able to communicate effectively with those they are representing.

Tribal Participation:

Federal agencies were asked to remember their trust responsibility to the tribes and not act against tribal interests during the process.

Hualapai representatives had two concerns: that they not be forced to participate, and that the “train not leave the station without them.” They also wondered how all the nine tribes with a possible interest in the canyon would be represented. The chairman stated that Hualapai and Havasupai have the greatest stake in the results of the Working Group. Those two tribes live in the canyon, the chairman explained. He went on to explain the extent of air tour business within Hualapai jurisdiction, and to say that this business is critical to the welfare of his tribe, and that the federal agencies are bound to act in the interest of tribes when they are making new regulations.

Response: The agencies responded that they would be consulting with each tribe on how they wanted to participate. To maintain a workable size of the diverse interests, it is not possible for all tribes or all other stakeholders to directly sit on the Working Group, but even those who are not on the Working Group could attend meetings and make contributions to the discussions. Additionally, there will be government-to-government consultation, as well as public information and feedback, in addition to Working Group sessions.

The Havasupai Tribe reminded the agencies that they had adopted a resolution in 1997 regarding flights over their jurisdiction, and that resolution is still in effect.

The representatives from Cameron Chapter, Navajo Nation, volunteered that they are negotiating with a helicopter company to begin tours at the confluence with the Little Colorado, and therefore have a keen interest in the overflight regulations. They asked the agencies to understand the challenge that the Navajo Nation faces when it comes to decision-making. The Nation has many departments and over 100 chapters, and it is impossible for one representative at the chapter level to speak on behalf of the Navajo tribal government.

Response: Lucy responded that the collaborative process will need to accommodate these realities and that the agencies are prepared to consult with each tribal government to determine the best way for representation.

Caveats about Consensus:

There were warnings about the use of consensus by the Working Group. Some warned that it may result in a diluting of agreement to the lowest common denominator, and that environmental parties in particular should be wary of collaborative processes which may undercut their power. “It should be included in the tool kit, and used with caution.”

Relationship to NPOAG:

Some expressed concern about the relationship between the parent NPOAG and its offspring, the Grand Canyon Working Group. They feared that if the Working Group were required to send its recommendations to the NPOAG for approval, there could be unnecessary hurdles and delays for the implementation of recommendations. They preferred that the Working Group recommendations flow unimpeded through the NPOAG to the two agencies, or that the Working Group report simultaneously to the NPOAG and to the two agencies.

Response: The agencies are aware of this issue and will propose a procedure that maintains the integrity of the Working Group recommendations.

Another participant noted that the NPOAG meeting minutes are not posted on the website, and that the public has a right to know what the group has accomplished, or failed to accomplish.

Capacity to Participate:

Some asked if there would be funding to help Working Group members participate. Although some companies and agencies can fund employees to sit on such groups, there are non-profits and others who cannot afford to participate.

Response: The agencies intend to keep costs down by holding Working Group meetings in reasonably close proximity to Grand Canyon, near where the bulk of participants are located. Participants are not proposed to be funded by the agencies. Exceptions may be made on a case-by-case basis for hardship situations.

### Support for the Concept:

Although there were many concerns raised about the creation of an NPOAG Working Group to resolve overflight noise issues, there was also support for the idea. Some said that the NPOAG is a good model for collaboration and has accomplished some significant tasks. With the model selected, the process can bring the agencies and stakeholders and sovereign governments together to address the issues. Another participant said that using the NPOAG seemed like a sensible approach. “This is not a conflict between noise and no-noise, but between two different kinds of park visitors,” he added. Another supported the concept for the inclusion it would afford tribes and others who are not present when the two agencies make decisions inhouse, and for the authority that group would have to make recommendations.

### Consideration of other Processes:

Participants wanted to know what other processes had been considered before the proposal for the Working Group was chosen. Mike Eng (USIECR) described some of the other options:

- The NEPA process, enhanced with additional public participation. (It is likely that NEPA will be necessary given the kinds of actions contemplated, and that it can occur on a parallel track with the Working Group.)
- The Negotiated Rulemaking Act for proposed rulemaking, which required creation of a Federal Advisory Committee under the Federal Advisory Committee Act (FACA)
- The Administrative Dispute Resolution Act for certain kinds of disputes, usually within an agency

Agency spokespersons reiterated that the Working Group was selected for several reasons. Creating a FACA committee can be a long, complex process, and would require finding a new source of funds. The NPOAG vehicle brings with it partial funding for the process, and an administrative home which will streamline the process. Furthermore, its charter includes the capacity for rulemaking, and the mission encompasses the tasks of the Working Group. Understanding the value of the regulatory negotiation process, the agencies have agreed to follow many of those principles, including commitment to the process, participation at a high level, adequate funding, and serious consideration of consensus recommendations.

### **Next Steps:**

Lucy explained that the agencies would consider carefully the comments from this meeting, as well as other comments they receive in the next few weeks, as they decide whether or not to move forward with the Working Group concept. Critical to that decision will be the response to the proposal from NPOAG at their meeting on February 23-24. If the decision is to proceed, the agencies will publish a notice in the Federal Register announcing the formation of the Working Group and inviting nominations for membership. She offered the following timeline for the near future:

- March – Federal Register Notice published, describing process and inviting nominations for Working Group members
- March-April – 30 day period in which to respond
- April-May – selection of Working Group, announcement of meeting schedule
- June-July – first meeting of Working Group

*Update: NPOAG concurred with the establishment of the Grand Canyon Working Group at its February 23-24 meeting, and a Federal Register notice is being issued.*

### **Closing Remarks:**

Sharon Pinkerton thanked the audience for their time and attention, and said that she shared their concern about the schedule. She hopes to help put this process on the fastest track possible, without compromising quality of the product.

Paul Hoffman said that the agencies are approaching this task optimistically. He emphasized a belief in collaboration and the importance of addressing everyone's needs. He pledged to continue to work together for resolution of overflight issues at Grand Canyon.

*Summary prepared by Lucy Moore. Please contact her with any comments or questions: 505-820-2166, or FAX 505-820-2191, or email <[lucymoore@nets.com](mailto:lucymoore@nets.com)>*