

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
NORTHWEST MOUNTAIN REGION

RECORD OF DECISION

FOR

PROPOSED GENERAL AVIATION
AIRPORT AT HULETT,
CROOK COUNTY, WYOMING
February 5, 1999

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I. INTRODUCTION AND BACKGROUND

In 1993, the Town of Hulett, Wyoming, selected a consultant to prepare an airport site selection study, master plan, and environmental assessment (EA) for a proposed airport near their community. As discussed in these now completed documents, the purpose of this proposed capital investment project is to provide aviation facilities in the Crook County, Wyoming region, which are needed to accommodate existing and anticipated demands by business and general aviation users (both using general aviation class of aircraft) in the area.

In 1994, at the request of the Town of Hulett and with the support of the Wyoming Department of Transportation Aeronautics Division, the Federal Aviation Administration (FAA) began its co-sponsorship of these studies. A master plan, site selection study, completed on August 12, 1994, identified and analyzed five possible airport sites which were potentially adequate for this proposed airport development, and identified a site approximately 1 mile southeast of the Town of Hulett as the preferred site after considering community, operational, financial and environmental issues. On July 25, 1995, a draft EA was released for public comment. The comment period ended September 30, 1995. A public hearing on the draft EA was held in Hulett, Wyoming, on August 30, 1995. The comments on the draft EA reflect a concern for a variety of environmentally related issues, with a primary focus on the potential effects of the project on the Devils Tower National Monument (DTNM).

Throughout the EA process, extensive coordination has taken place among the FAA, the National Park Service (NPS), the State Historic Preservation Office (SHPO), local Native American tribes, and the Advisory Council of Historic Preservation (ACHP), due to expressed agency and public environmental concerns with the project. This consultation process continued following the close of the formal comment period, as documented in Appendix H of the Final Environmental Assessment (FEA).

An FEA was approved and signed by the FAA on February 5, 1999. This document addresses each area of public and agency concern, through modifications to the text of the draft EA, and/or by specific responses to written comments submitted during the public comment period.

II. THE PROPOSED AGENCY ACTIONS AND APPROVALS

The FAA actions, determinations, and approvals necessary for this project to proceed to completion include the following:

- a. A determination of project eligibility for federal grant-in-aid funds (49 U.S.C. § 47101, et. Seq.) for land acquisition; site preparation; runway, taxiway, runway safety area, and other airfield construction; terminal and related landside development; navigational and landing aids; a noise monitoring system; and environmental mitigation.
- b. A determination of agency support for the installation of nonprecision global positioning system (GPS) approach equipment at the new airport, along with the development and publication of air traffic control airspace procedures associated with the use of that GPS equipment (49 U.S.C. § 40103 (b)).
- c. Determinations, through the aeronautical study process, under 14 CFR Part 77, regarding obstructions to navigable airspace (49 U.S.C. § 40103(b) and 40113).

d. Determinations under 14 CFR Part 157 as to whether or not the agency objects to the proposed airport development proposal from an airspace perspective based upon aeronautical studies (49 U.S.C. § 40113(a)).

e. Determinations under 49 U.S.C. Sections 47106 and 47107 pertaining to FAA funding of airport development, including approval of an airport layout plan (ALP), 49 U.S.C. § 47107(a)(16), environmental approval (see 42 U.S.C. §§ 4321-4347, and 40 CFR § 1500-1508), and determinations under other executive orders and statutes discussed in this Record of Decision (ROD).

f. An agency certification that the proposed facility is reasonably necessary for use in air commerce or for the national defense (see 49 U.S.C. § 44502(b)).

III. ALTERNATIVES ANALYSIS

As noted above, in determining a preferred project location, the FAA participated in a site selection analysis, which was completed in 1994. The Airport Site Selection and Master Plan Study identified and evaluated five potential sites. The purpose of the study was to identify a preferred airport site that would address environmental and operational concerns. The analysis and conclusions of this study are set forth in the Airport Site Selection and Master Plan Study, found at Appendix G of the FEA. Appendix G, Tables 2 and 3, compare and contrast these five sites using a number of environmental and operational criteria.

The FAA actively participated in the site selection study, and independently determined that the assumptions and methodology used and the conclusions reached by the airport sponsor in that study were appropriate. However, the FAA does not consider it appropriate or necessary, in its independent Federal consideration of alternatives in this FEA, to undertake a de novo comprehensive analysis of an optimum airport site and configuration, since the sponsor, as the future airport proprietor, has the fundamental role of deciding whether or not and when to build a new airport, and ultimately for planning, constructing and operating the airport. Under these circumstances, it is appropriate that substantial weight be given the preferences of the sponsor in its siting and design of the project.

The FEA includes an analysis of several potential alternatives for satisfying the project purposes and need. The following is a summary description of the alternatives evaluated:

a. Alternative 1. Take no Action. This alternative assumed that there would be no new airport constructed in Crook County, Wyoming.

b. Alternative 2. Provide Service from Another Airport. This alternative considered the potential of surrounding airports to provide adequate facilities to meet the aviation demands of the Crook County region.

c. Alternative 3. Utilize Other Transportation Alternatives. This alternative considered the potential of using other travel modes to serve aviation needs of the region.

d. Alternative 4. Construct an Airport at a Different Location. This alternative relied upon the evaluation of the four alternative sites analyzed in the site selection study.

e. Alternative 5 Construct an Airport on the Preferred Site (Site #5).

The site selection study, part of the airport master planning process, evaluated five specific sites for the proposed airport. Sites one through four were eliminated from further detailed environmental consideration in the EA for the following reasons (a more detailed discussion can be found in FEA Appendix G):

(1) Site 1--location is within the Powder River B MOA(Military Operational Area - possible military training airspace conflicts), wetland destruction and mitigation would be required, and the site is 8 miles from the Town of Hulett.

(2) Site 2--3.5 miles from DTNM, terrain constraints, a road would have to be relocated, and the site is 5 miles from the Town of Hulett.

(3) Site 3--impacted by the Powder River B MOA(Military Operational Area-possible military training airspace conflicts), within 1 mile of the Black Hills National Forest, the runway could not be extended, and the site is 8 miles from the Town of Hulett.

(4) Site 4--would require relocation of a county road, acquisition of private ranch house and out buildings, and the site is 5 miles from the Town of Hulett.

(5) Site 5--this site is identified as the site of the preferred alternative in the FEA. Alternative 5, site 5, is located approximately 1 mile southeast of the Town of Hulett, approximately 1 mile southeast of the Belle Fourche River, approximately 7.5 miles northeast of DTNM, and approximately 5.0 miles west of Black Hills National Forest. Alternative 5, site 5, consists of a 5,500-foot-long by 75-foot-wide runway, with ultimate runway length of 6,500 feet, runway lighting, apron and terminal areas, an access road, and a potential nonprecision GPS approach.

The primary considerations for the FAA in the selection of an alternative for federal support include: the purpose and need for the project, environmental impacts, impacts to the residential community of Hulett, and impacts to Devils Tower National Monument.

In its consideration of alternatives, the FAA has also been mindful of its statutory charter to encourage the development of civil aeronautics and safety of air commerce in the United States (49 U.S.C. 40104).

After careful consideration of the analysis of the impacts of the various alternatives considered, and of the ability of these alternatives to satisfy the identified purpose and need for the proposed facility; and after review and consideration of the testimony at the public hearing, of comments submitted in response to the draft EA and of coordination with federal, state, and local agencies; and after considering federal policy, the FAA hereby selects the development proposal identified as alternative 5 in the EA for federal support.

IV. AGENCY FINDINGS

The FAA makes the following determinations for this project, based upon appropriate information and analysis set forth in the FEA and other portions of the administrative record.

a. The project is consistent with existing plans of public agencies for development of the area surrounding the airport. [49 U.S.C. 47106(a)(1)].

The determination prescribed by this statutory provision is a precondition to agency approval of project grant funding applications. Extensive coordination regarding this proposed project has

taken place between federal, state and local agencies. See the November 9, 1998; letter from the Wyoming Department of Transportation stating that the proposed airport has been included in the Wyoming State Airport System Plan.

b. The interests of the community in or near which the project may be located have been given fair consideration. [49 U.S.C. 47106(b)(2)]

The determination prescribed by this statutory provision is a precondition to agency approval of airport development project grant funding applications. The FEA demonstrates that the proposed new airport will neither disrupt or divide the community, nor impede its orderly development, and it is not in conflict with the comprehensive planning and goals of Crook County and the Town of Hulett, Wyoming. This is shown in FEA Chapter 4, section 4.02, Compatible Land Use; section 4.03, Social Impacts; and section 4.04, Induced Socioeconomic Impacts. The draft EA was provided to the public and governmental agencies for review and comment. Further, a public hearing was held on August 30, 1995, to provide an additional opportunity for persons to comment on the proposed development.

c. The State of Wyoming has certified in writing that there is reasonable assurance that the project will be located, designed, constructed, and operated in compliance with applicable air and water quality standards. [49 U.S.C. § 47106 (c)(1)(B)].

The determination prescribed by this statutory provision is a precondition to agency funding approval of airport development project funding applications involving the location of a new airport. See the November 10, 1998, letter from the Governor, in Appendix H, addressing the above-required certification.

d. Appropriate action, including the adoption of zoning laws, has been or will be taken to the extent reasonable to restrict the use of land next to or near the airport to uses that are compatible with normal airport operations. [49 U.S.C. § 47107(a)(10)].

The sponsor assurance prescribed by this statutory provision is a precondition to agency approval of airport development project funding applications. See the December 7, 1998, Resolution from the Town of Hulett, in Appendix H, addressing the above issue.

e. "Use" of lands with significant historic sites [49 U.S.C. § 303(c),(Section 4f of DOT Act); and 16 U.S.C § 470f (Section 106 of the National Historic Preservation Act, NHPA)].

49 U.S.C. § 303(c) prohibits FAA approval of a transportation project requiring the use of any land of any significant historic site, unless there is no prudent and feasible alternative and the project includes all possible planning to minimize harm to the historic site.

16 U.S.C § 470f requires a federal agency, providing financial assistance to an undertaking, to first take into account the effect of the undertaking on any site included in or eligible for inclusion in the National Register of Historic Places (NRHP).

Over the last several years, during the preparation of the EA, the FAA, other government agencies, and interested parties have been engaged in the process prescribed by 36 CFR part 800, designed to achieve the objectives set forth in section 106 of the NHPA (see FEA Appendix H). This process was also used by the agency to determine whether the proposed project would involve the "constructive use" of any significant nearby historic sites, particularly the Devils Tower National Monument [DTNM], encompassing a massive natural rock outcropping located approximately 7.5 miles from site 5, and under the jurisdiction of the National Park Service (NPS). The DTNM has been designated as eligible for inclusion in the National Register of Historic

Places, primarily due to its religious and cultural significance to local Native American tribal groups, which use the monument during annual tribal religious ceremonies.

Initially, during the site selection study phase of the EA, the area of potential effect of the project included the DTNM and, therefore, the study explored the potential for the project affecting or "constructively using" the DTNM site. However, after the identification of a preferred site alternative, a more refined agency evaluation resulted in the removal of the DTNM from the area of potential effect.

By letter dated March 28, 1997, following 3 years of interagency and public coordination, and pursuant to the provisions of 36 CFR § 800.5(b), the responsible regional FAA official issued a "No Effect Determination" for the proposed project, and served the letter upon the State Historic Preservation Officer (SHPO), the Advisory Council on Historic Preservation (ACHP), and other interested parties.

By letter dated April 9, 1997, the SHPO concurred with the agency's archeological determination, and stated that they would not comment at that time on the FAA's determination of no effect until a meeting or further discussions between interested parties could be held. However, since the SHPO did not object to the FAA's "No Effect Determination" within the 15 day period prescribed by 36 CFR § 800.5(b), the FAA was at that point free to proceed with its support for this undertaking, and the Section 106 consultation process appeared to be complete.

However, interagency correspondence continued with an April 10, 1997, NPS letter and an April 22, 1997, letter from the Medicine Wheel Coalition requesting the ACHP to review the agency's determination pursuant to the provisions of 36 CFR § 800.6(e)(1). The ACHP objected to the FAA's no effect determination in two letters dated April 18, 1997, and March 30, 1998. Pursuant to 36 CFR § 800.6(e)(2), the FAA was then required to reconsider its finding in light of the ACHP views.

By letter, dated April 28, 1998, the responsible regional FAA official provided this reconsideration, by reaffirming his earlier "No Effect" determination pursuant to 36 CFR § 800.6(e).

However, in a May 15, 1998, letter, the NPS again requested the ACHP to review the FAA's determination. In response, and at the request of the ACHP, headquarters FAA officials conducted a reassessment of the region's determination, which included a technical review of an NPS noise study, and an additional FAA noise analysis using the latest modeling techniques. On September 4, 1998, a written report of the headquarters reassessment was issued (See FEA Appendix H), which reconfirmed the region's earlier findings of no effect, found that the DTNM is outside the proposed undertaking's area of potential effect, and that airport operations would not affect the characteristics of the DTNM which make it eligible for inclusion in the National Register of Historic Places.

In a letter dated September 15, 1998, the NPS again requested the ACHP to review the FAA's reassessment of its earlier no effect determinations. The ACHP did not again object to the FAA, or ask the FAA to again reconsider its no effect determination.

However, pursuant to 36 CFR § 800.6(e)(2) the FAA, in this Record of Decision, has once again reconsidered its previously stated position. Based upon the agency's thorough evaluation of these issues, which has included extensive consultation with other agencies culminating in the above referenced FAA headquarters reassessment, the FAA finds that the proposed project will not "affect" or "use" the DTNM or any other potentially significant "4f" properties.

The FAA has now fully considered the undertaking's potential affect on the DTNM. With no such affect or constructive use there is no legal requirement for project planning to minimize potential

harm resulting from any such potential affect or use. With the FAA's present reconsideration of this issue, the Section 106 process has been completed, and the agency has now fully taken into account the effect of the undertaking on the DTNM.

Notwithstanding these findings, the Town of Hulett provided agencies and individuals an opportunity to express their concerns about their perceptions of possible impacts related to operation of the Hulett Airport. None of the concerns raised in this process were of a level of significance that would affect these findings. However, the Town of Hulett has committed to take various actions to encourage awareness of the DTNM and to discourage overflights. The actions are described in Section VI of this ROD.

f. Finding of No Significant Environmental Impact. (40 CFR 1508.13)

After careful and thorough consideration of the discussions set forth in the Final EA and in this Record of Decision, it is found that the proposed federal action [FAA support for the development of airport site 5, the preferred alternative] is consistent with existing national environmental policies and objectives, as set forth in section 101(a) of the National Environmental Policy Act of 1969 [NEPA], and that such development will not significantly affect the quality of the human environment or otherwise include any condition requiring consultation pursuant to section 102 (2) (C) of NEPA.

V. MITIGATION

In accordance with 40 CFR 1505.3, the FAA will take appropriate steps, through federal funding grant assurances and conditions, airport layout plan approvals, and contract plans and specifications, to ensure that mitigation actions identified in the FEA are implemented during project development, and will monitor the implementation of these mitigation actions as necessary to assure that representations made in the FEA, with respect to mitigation, are carried out. The FEA Chapter 4, Section 4.21, includes a discussion of mitigation actions.

VI. ACTIONS TO PROMOTE AMICABLE COMMUNITY RELATIONS AND HELP PRESERVE PARK RESOURCES AND VALUES

The following actions are designed to increase community and agency acceptance of the proposed new airport and to address concerns of the National Park Service (NPS) and other parties. These actions are consistent with good will gestures and cooperative actions agreed to by the Hulett Airport Advisory Board (HAAB).

No Fly Advisory

A voluntary, minimum, 2-mile no-fly advisory zone, (up to a 3-mile zone may be considered for a period during the month of June) centered on the Devils Tower National Monument (DTNM), center coordinates (UTM N 4, 937,287 and E 522,645), will be established by HAAB. Law enforcement, firefighting, agricultural practices, and utility right-of-way activities will not be considered as inconsistent with advisory.

The no-fly advisory will be included in the Hulett Municipal Airport Operational Plan, which will be displayed in the primary building on the Hulett Airport that serves the airport users. The 2-mile no-fly advisory will be listed in the following and other appropriate publications:

Wyoming System Airport Map, published by the Wyoming Department of Transportation
Aeronautics Division Aircraft Owners and Pilots Airport Directory

U.S. Government Flight Information Publication Airport/Facility Directory

The FAA will assist HAAB in publishing this advisory.

The HAAB will request from the FAA a Notice to Airman (NOTAM) that will be issued to advise pilots of the 2-mile no-fly advisory.

Operational Procedures

Voluntary operational procedures will be established by HAAB for aircraft using the Hulett Airport. Weather permitting and consistent with safe operating procedures, pilots approaching or departing the airport will be advised to fly routes in northeasterly or southeasterly directions and avoid the voluntary no-fly zone. The Denver Airports District Office (ADO) will assist HAAB in establishing the procedures, which will be included in the Airport Operational Plan.

Beacon Shielding

The HAAB will direct and the Denver ADO will monitor the design and construction of the project, so that airport beacon light shielding will be incorporated into the design of the airport in such a way as to reduce potential visual impacts on DTNM, while maintaining the safety required for operations. Also, typically, and in most cases, the airfield lighting (including runway, taxiway, and apron lights) will be activated by radio control by pilots on an on-demand basis. This is intended to minimize the period when the airfield is lighted, consistent with maintaining safety of operations.

Education

The HAAB will, in consultation with the NPS, the Plains Indian Tribes, and the Denver ADO, install an exhibit that informs the public of the importance of DTNM to the Plains Indian Tribes, and highlights the importance of the DTNM as a unit of the National Park Service. The exhibit will be displayed in the primary building on the Hulett Airport that serves the airport users.

Noise Monitoring

The HAAB, in consultation with the Denver ADO and the NPS, will develop and implement a reasonable noise and activity monitoring program at the Hulett Airport and DTNM. If the monitoring program indicates a problem associated with overflights of DTNM from aircraft operations at Hulett Airport, additional educational efforts or other actions within the authority of the HAAB will be undertaken by HAAB in consultation with the Denver ADO and the NPS. The scope and effectiveness of the noise-monitoring program will be evaluated at the end of 5 years.

Review

The Hulett Airport Board, in consultation with the FAA and NPS, shall review the measures in this section as needed, or at a minimum after 1 year and 5 years after the opening of the airport. Based on these reviews, modifications or additions to these activities may be implemented upon agreement by the parties.

Reports

The HAAB will report to the FAA annually for 5 years on actions taken under this section.

