

Report of the

Assessment of Stakeholder Interests

On Grand Canyon Overflights

For the National Park Service and Federal Aviation Administration

Conducted by

Lucy Moore Associates

and



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DISCLAIMER

The following report is intended to reflect the opinions of 46 stakeholders and government representatives who were interviewed as part of the stakeholder assessment process. It does not represent the views of the facilitation team, nor does it attempt to characterize the official positions of the two agencies. Some agency staff members were interviewed, but their views were personal and they did not speak in an official capacity.

I. STAKEHOLDER ASSESSMENT PROCESS

Overview: In 1987 the National Parks Overflights Act (Public Law 100-91) directed the Federal Aviation Administration (FAA) and the National Park Service (NPS) to work together to substantially restore natural quiet to Grand Canyon National Park, and to take necessary steps to protect public health and safety from adverse effects associated with aircraft overflights. Previous efforts to achieve this mandate have met with technical hurdles, in terms of developing new analytical and noise modeling capabilities, and practical challenges, in terms of generating broad support for the specific methods for accomplishing the goal of restoration of natural quiet.

A year ago, the two agencies committed to resolving the overflights noise issues together. With help from the U.S. Institute for Environmental Conflict Resolution, an independent and impartial agency with expertise in conflict resolution, they developed a mission statement and formed work groups to focus on technical, legal and administrative aspects of the new partnership. In the spring of 2004 they concluded that the best way to reach a broadly-accepted, feasible solution to this complex problem would be to involve stakeholders.

To assess the feasibility of a collaborative process with stakeholders, the U.S. Institute contracted with Lucy Moore Associates, Inc., to design and conduct a Stakeholder Assessment Process. The agencies wanted to better understand the needs of stakeholders, and the potential for using a collaborative process to develop a solution to overflight noise issues at Grand Canyon that would meet all legal requirements and enjoy the support of interested and affected stakeholders, as well as the general public. As is described below, a broad range of stakeholders were asked their views on the overflights noise issue and their ideas about how a collaborative process might best work.

What follows is a summary of the Stakeholder Assessment Process. These results will help the agencies decide first whether or not to proceed with a collaborative process, and if yes, how to design a process, frame the issues and identify participants in the process. If the choice is made to proceed with a collaborative process, the goal will be to form a group that is balanced and representative of all interests, and where an impartial facilitator helps members strive for consensus on a mutually acceptable solution.

Assessment Team:

Under contract to the U.S. Institute for Environmental Conflict Resolution (USIECR), Lucy Moore Associates, Inc., (LMA) managed the stakeholder assessment process. Lucy Moore, Ed Moreno and Tahnee Robertson designed the assessment process, developed the protocols and template for the interviews, and conducted and summarized the interviews.

Identification of Stakeholders:

The assessment team consulted with staff from the FAA and NPS to develop a list of those who had been active, or who had expressed an interest in, the issue of overflight noise at Grand Canyon. The list was broken into several categories, in an effort to insure that all interests were represented.

These categories were:

- Government (federal, state, local, including airports)
- Sovereign Indian Nations and Tribes
- Congressional delegations (Arizona and Nevada)
- Aviation interests: Air tour:

- fixed wing and helicopter
- large and small operations
- Las Vegas and Arizona based
- Aviation interests: Other:
 - Associations
 - Commercial airlines
 - Military
 - General aviation
 - Business aviation
 - Miscellaneous – film, educational
- Conservation interests (both individuals and organizations)
- Recreational interests (hiking and rafting)

The assessment team initially selected 35 individuals whom they felt represented the broad range of interests. The challenge was to choose a manageable number of people and also to be inclusive. At the Public Stakeholder Meeting in Flagstaff, Lucy invited anyone who wished to be interviewed to call and request to be included in the group. Forty-six stakeholders were interviewed in all. The agencies and organizations interviewed can be found in Section 4, “Substantive Issues of Stakeholders.”

Assessment Process:

The assessment team developed a set of protocols to govern the interview process. Interviewees were invited by email or fax to participate in an interview. Lucy, Ed and Tahnee divided the list of interviewees and called them to arrange a time for the interview. They explained the process, and the purpose, and how the interview would be used. They also emphasized that the interview would be confidential and that the results would be aggregated in a presentation to the agencies on November 12. Interviews were conducted from October 1 through November 3 by phone or in person. Each interviewer kept notes of the conversation, which were used to create the presentation and recommendations to the agencies.

II. OBSERVATIONS – COMMONALITIES AND DIFFERENCES:

The following will give a flavor of the interviews, highlighting where there was common ground and where there were sharp differences.

COMMON GROUND

Attitude toward a collaborative process:

Almost all the interviewees, representing the full spectrum of interests, were willing to give the collaborative process a chance. They expressed frustration and weariness with the last several years of battle at Grand Canyon. There was an interest in and a hopefulness about the commitment of the FAA and NPS to work together, and the fact there are “new faces” in both agencies. Many said it would never be resolved without that kind of cooperation.

When asked if they would be satisfied with a resolution reached between the two agencies without stakeholder involvement, everyone said no, either quickly, or with qualifications. “The devil is in the detail,” “I would have to see what they came up with and then decide,” “It depends on the election,” “I don’t trust the [FAA] [NPS] not to get rolled – they have no power any more.”

No one said they did not want to participate in the process, although many said that there may be more appropriate representatives from their agency, organization or company to sit at the table. It is also clear that if there is a process, no one potentially affected wants to be left out. “Everyone will come to the table to play defense,” volunteered an interviewee.

In general, interviewees recommended a process that is structured, efficient and clear in its goal. Participants in such a process should be there in good faith, be knowledgeable, be open to new ideas, be respectful of everyone, and be willing to work hard and stick with it. Most favored a process with a time limit.

Tasks for Agencies before the collaborative process:

Most interviewees urged the two agencies to resolve some issues before inviting stakeholders to join them in discussions. These issues include agreeing on a model to use in determining restoration of natural quiet, identifying the issues to be on the table and those that will be off the table, and clarifying the process to be used and the authority and expectations of the participants.

Zealots on both sides:

Most interviewees wanted us to know that there are zealots on the other side, and many acknowledged that there are zealots on their own side as well. In general, the feeling was that there were plenty of spokespeople for all the interests who were not extremists, and that these are the ones who should be part of a process.

Perceived intolerance on both sides:

On both sides, people fear a perceived intolerance and extremism of the other side. Many air tour operators believe that the environmentalists are out to eliminate them from all national parks forever. They feel misunderstood and unfairly maligned. Conservationists and recreationists, on the other hand, feel little or no empathy from the air tour industry. They fear that the operators will continue to expand their operations in the interest of personal business, and that there will be no way to protect the resources and the unique natural beauty of the Canyon.

An interviewee suggested asking the stakeholders at the first meeting of the collaborative process, “Isn’t it true we are in this pool together?” The answer would be “yes.” The next question would be “Do you want to see your enemies drown?” and he guesses that the answer would be “no.”

Role of politics and courts:

Both sides dislike, resent, or envy – depending on the circumstances – the ability of the other side to wield power in the political or the legal forum. They wish the other would restrain from using whatever influence they have in congress or the courts. Environmentalists fear the aviation industry is planning to seek congressional support to overturn the gains made in the Act of 1987 and in subsequent court decisions. The air tour operators believe that the environmentalists would do the same in a favorable political climate, and that in the meantime they are pouring resources into bitter legal battles.

Nothing left to give:

Both environmentalists and air tour operators feel they have nothing left to give in the way of compromise. “Don’t ask me to meet in the middle – the middle is way behind me,” said an operator, who believes that he has already made all the sacrifices that can be expected of him. Giving up any more in the way of routes, hours, seasons, altitudes, allocations would destroy his business. Environmentalists feel that the protections in place now are minimal, and that ideally definitions, standards, routes and management practices would be more restrictive, not less. They are very reluctant to give up anything that would open the door to an increase in air tours.

Agency Cooperation:

The agencies’ commitment to work together to resolve the issue is viewed positively by many.

DIFFERENCES:

Precedence:

For the most part, air tour operators and other aviation interests do not want the process or the results of a Grand Canyon collaborative process to serve as a precedent for other national parks or public lands. They acknowledge the uniqueness of Grand Canyon, and are willing to participate collaboratively to reach a solution, but feel strongly that this is a site-specific effort.

Environmentalists and most recreationists are eager to address the noise issue at Grand Canyon, and hope that, if successful, the process is repeated elsewhere.

Definitions, calculations and measurements:

Air tour operators and other aviation interests feel that the definitions of day and of natural quiet are overly strict, and that the curfews should be adjusted to allow for a longer air tour day. They believe that noise should be measured in terms of noticeability, using FAA methodology, and that their businesses should be allowed to grow, as long as their presence does not interfere with the visitor experience.

Environmentalists support the existing definitions, calculations and measurement methodology, and hope to make them all stricter in order to limit air tours. Noise, they say, should be measured in terms of audibility, not level of annoyance.

III. SUMMARY OF ISSUES

Economic Considerations:

Potential economic impacts to the air tour industry from noise regulations depend on the size of the company, type of aircraft used, and target market. Many companies will attempt to comply by investing in new quieter fleets, by increasing the size of planes, or expanding routes elsewhere. Larger companies may benefit competitively from regulations with which smaller companies would have difficulty complying. Smaller companies may fail or move their business elsewhere. Nearby cities, particularly Las Vegas, rely on air tours of the Grand Canyon as a significant component of their tourism industry. There is another side to the economic coin. Business interests at the Grand Canyon who are not in the air tour industry fear that noise and visibility of aircraft, if not regulated, may become a deterrent to ground-based tourism at the Park.

Safety:

The FAA is responsible for the safety and efficiency of the national airspace system. Air corridors, routes, and restrictions must meet the agency's standards for safety.

Visitor Experience:

Whether on the rim, on a trail, on the river, or in the air, each visitor to the Canyon has his/her own experience – of beauty, of peacefulness, of new knowledge, of excitement, and more. There are many types of visitor experiences at Grand Canyon, and the proponents of each kind of experience see a particular value for the visitor. The air tour operators afford visitors who are disabled, elderly, or short on time, a Grand Canyon experience from the air, which is breathtaking and memorable. River runners and outfitters provide a longer, different kind of experience, on the ground and on the river. For the hiker or the rafter, who are experiencing the natural beauty and soundscape of the Canyon air, anthropogenic noise can be an intrusion on the experience.

Environmental Protection:

The Grand Canyon National Park is responsible to uphold the original intent of the establishment of the Park – the protection of the natural resource for the enjoyment of future generations. Handling the volume of visitors each year is a challenge and the agency struggles to preserve the natural resource that draws so many. Several environmental organizations have focused on the Canyon resources, in an attempt to support (and sometimes prod) the Park Service in carrying out its mandate. The US Fish and Wildlife Service also has a mandate to protect endangered and threatened species that occur in the Park. There are several species in the Canyon, including the bald eagle and the California condor, which need habitat protection.

Cultural Resource Protection:

All federal agencies are responsible for protecting cultural resources within their jurisdiction. Neighboring Native American tribes and nations claim hundreds of sites of cultural, historical and religious importance in the Grand Canyon and Little Colorado Gorge.

Agency Cultures:

With different mandates and different organizational cultures, NPS and FAA have been unable to resolve the issues of overflight noise at Grand Canyon. Although the Overflights Act of 1987

and subsequent court decisions have demanded resolution, stakeholders await implementation. Politics, science, law and values clashes have all played a role in the conflict.

Scope and Identification of Issues:

The choice of specific issues to be addressed and a focus on certain quiet technologies will affect the selection of appropriate participants in the process. Several potential participants hope that the issues and scope are defined so as to exclude them. Commercial and business aviation interests hope to be excluded from any regulation because of their high altitude and the potential disruption to the national airspace system which could occur if routes were changed to avoid the canyon. In addition, there could be unintended environmental consequences by adjusting high altitude flights. General aviation, and other miscellaneous aircraft used in educational tours or filming, also hope to be exempt, based on the fact that their flights are sporadic, infrequent, and often move from one point to another. Some in the air tour industry are concerned that all contributors to noise should be regulated, in the interest of equity. Tribal governments also claim exemption on the basis of sovereignty (see below).

Tribal Sovereignty:

Tribal governments are sovereign, with jurisdiction over their resources and economic activities. When a federal agency proposes an action that could impact tribal resources or communities, the agency is obligated to initiate a government-to-government consultation with the tribal government. The agency must take the tribe's concerns into consideration when making a decision. Some tribes adjacent to the Park are conducting, or leasing staging areas for, air tours. They believe they have sovereign jurisdiction over these activities, and assume they are exempt from the calculation of aircraft noise and from regulations focused on noise reduction. Sacred areas of tribes have been respected in the designation of corridors and routes to date.

Equity and Fairness:

As in all efforts to resolve conflict, at the heart is the question of fairness. Stakeholders in this issue feel strongly that any solution must be equitable to all involved. No one interest should bear an undue burden in satisfying the requirements of substantial restoration of natural quiet.

IV. SUBSTANTIVE ISSUES OF STAKEHOLDERS

Government Stakeholders:

Federal: (National Park Service, Federal Aviation Administration, Bureau of Land Management, Council on Environmental Quality, US Fish and Wildlife Service, USFS Kaibab National Forest, NPS Lake Mead National Recreation Area)

Different Missions of FAA and NPS:

Those interviewed representing the federal government emphasized their missions, recognizing that they are very different mandates, but hoping that they are not incompatible. For NPS, the mission is the protection of the natural resources of the Grand Canyon for the present and future generations. For the FAA, the overall mission is to insure the safety and efficiency of the national aviation system. Both agencies are mandated to implement public law to achieve the substantial restoration of natural quiet at the Canyon. For both agencies, the juxtaposition of natural quiet in Grand Canyon and the noise created by air tours and other aviation is an issue that brings them into foreign, or at least uncomfortable, territory. In its effort to implement the Overflights Act of 1987, the Park Service has attempted to regulate certain activities of an industry that is outside its area of expertise. The FAA, on the other hand, finds itself confronted with a unique noise standard – substantial restoration of natural quiet – at one of the country’s most significant natural resources. The issue has polarized the agencies, as well as many of the stakeholders.

“We’re not here to help anyone make a living. We’re here to protect the resources of the Park.”

“The FAA knows aviation. It’s our field of expertise.”

Relationship between FAA and NPS:

Understanding these divergent missions, both agencies have committed to developing a productive working relationship, realizing that their interests, although different, are increasingly overlapping. In addition to the resolution of the aircraft noise issue at Grand Canyon, NPS and FAA must work collaboratively to develop Air Tour Management Plans (ATMPs) for more than 100 other parks around the country. FAA field representatives hope to be informed about public meetings and outreach conducted by NPS on overflight issues, so that they can coordinate and cooperate.

Representatives from both agencies said they were pleased with the progress that has been made during the last year, with the assistance of the U.S. Institute for Environmental Conflict Resolution. The three working groups have moved closer to resolution of difficult tasks. Communication is better, and there seems to be tolerance on both sides for the inevitable mis-steps along the way.

Both agencies, however, expressed concerns about the other. FAA spokespersons (as well as many in the aviation industry) fear a long range agenda in the Park Service that calls for removal of all aircraft from all national parks, on the basis of sound and visibility of aircraft and contrails. “We at the FAA do need to think about noise in parks differently, but I hope they aren’t expecting zero noise.”

The Park Service is concerned about what they perceive as a tendency on the part of FAA to move slowly and rely on congressional action to solve problems. NPS also identified their inability to collect park visitation fees on all air tours as an issue which must be resolved as quickly as possible.

They blame the FAA for not giving them data on flights within the area which they need to assess fees.

Need for Balance:

Both agencies acknowledge that restoring natural quiet at Grand Canyon requires balancing different, and sometimes conflicting, agendas. The vision statement created by NPS and FAA acknowledges that there will be some air tours – but what is unknown at this point is how much aircraft noise is too much.

A Common Noise Model:

The agencies are committed to agreeing on a model that can be used to determine the degree of natural quiet restored at the Canyon. Beginning with competing preferred models, technical staff from both agencies are reconciling differences and hope to agree on a single model soon. Both agencies believe that “a reasonable model exists,” in which they can both have confidence.

Standard for Natural Quiet:

A point of contention, the agencies need an objective standard and a credible method for measurement. In general, the FAA favors a measurable, objective standard that is based on noticeability or interference in the park visitor experience. NPS has chosen an audibility standard, which takes into account all detectable sound. They believe this is appropriate given the vastness, variety and uniqueness of the natural resource.

Use of the Volpe Center for Contracted Technical Assistance:

The agencies differ also in their views of the Volpe Center, which has been contracted by the FAA to gather data on noise for most of the country’s national parks. Some NPS staff question the objectivity of an organization with such close ties to DOT and FAA.

Precedence:

This is an issue that is on the minds of all federal agencies that could be affected by the outcome at Grand Canyon. The FAA and the Department of Defense (DOD), share the concern of the aviation industry that whatever solution is reached at Grand Canyon may be adopted elsewhere. They emphasize the site-specific, unique nature of this inquiry. Depending on the circumstances, other public land managers, like the Forest Service (FS) and the Bureau of Land Management (BLM), share that concern, or look forward to having the Grand Canyon model to draw on. In addition, rules developed at Grand Canyon will need to be coordinated with the air tour management plan (ATMP) at Lake Mead National Recreation Area, and there is some anxiety about the impact of these regulations on other ATMPs being developed at each park.

Impacts to Wildlife and the Environment:

NPS and U.S. Fish and Wildlife Service (USFWS) are particularly concerned about impacts to threatened and endangered species. NPS is concerned that a standard focused on noticeability of noise to humans or interference in the visitor experience could overlook impacts on animal species. USFWS issued a Biological Opinion in 2000, requiring the Park to take certain actions to protect habitat for certain species. Among the listed species, which USFWS believes could be impacted by aircraft noise or presence, are the California condor, the Mexican spotted owl, and the bald eagle. In 2002, USFWS requested additional Section 7 consultation with FAA, noting that substantial changes in the nesting locations and other activities of the three species had occurred and that FAA

and NPS had not taken steps to comply with the management actions stipulated in the 2000 Biological Opinion.

Impacts to Economy and Business:

The Office of Management and Budget (OMB) requires an analysis of impacts of any new regulations on small business. The NEPA process, as well, requires consideration of socio-economic impacts. It is not clear how this economic impact analysis would ultimately affect air tour management decisions.

Existing Routes:

The current Special Federal Aviation Regulation (SFAR 50-2, subsequently replaced by 14 C.F.R. sections 93.301 through 93.325 (Subpart U)) designates the area in which flight is regulated. Changing any of these routes may impact other federal agencies and public lands. The BLM, Parashant National Wilderness Area, the Kaibab National Forest and the Lake Mead National Recreation Area are among those concerned that moving air tours away from Grand Canyon could result in increased noise and disruption for their visitors and environment. The endangered and threatened species protected by the USFWS could also be impacted if routes changed.

Possible Exemptions from Regulations:

The federal agencies are committed to working together to identify those who would be subject to regulations. Certain tribal exemptions are specified in the Overflights Act, and the agencies expect to consider whether other non-air tour aviation interests should be regulated.

Commercial Airlines: The FAA has serious reservations regarding the intent of Congress to have regulations imposed on segments of aviation that are not air tours, e.g., commercial airlines using the high altitude enroute system, and military aircraft. The prospect of restricting high altitude enroute commercial air traffic raises issues of airspace capacity and efficiency, costs, and precedents that could affect the national aviation system far beyond the confines of the Grand Canyon National Park.

NPS is interested in the contribution of noise from the commercial airliners, and, if it were significant, they would be interested in exploring ways of mitigating the noise with the industry. They understand that it may not be feasible to make significant changes.

Tribal Governments and Nations: (Havasupai, Hopi, Hualapai, Navajo (both central and chapter levels), Zuni

Protection of Resources:

For tribal governments, the paramount issue is recognition and respect for tribal sovereignty over natural and cultural resources. The Grand Canyon and Little Colorado Gorge are the location of hundreds of culturally significant sites of neighboring tribes. All tribes are interested in protecting these resources from abuse by any person or entity. In addition, cultural and religious practices at these sites can be seriously impacted by overflight noise. Tribes mentioned the high cost of protecting resources that are so geographically dispersed; tribal budgets are often inadequate to monitor sites and keep track of issues.

Tribal communities can also be impacted by low-flying aircraft that frighten livestock and cause stampedes.

Opportunities for Economic Development:

Some tribes are also engaging in, or negotiating for, air tour services within their boundaries. In other cases, tribal communities use air tour operators to help with round-ups or other community needs. These activities, they believe, are within their jurisdiction, and not subject to regulation by the federal government.

Relationship with Federal Government:

All tribal governments consulted emphasized the importance of the government-to-government relationship with federal agencies. When a federal agency is considering an action that might impact a tribe or tribes, they are obligated by law to consult with those tribal governments and make a decision which takes into consideration those tribal issues. Some of the tribal governments consulted felt that the federal agencies were often lax and disrespectful in their initiation of the consultation process. Too often, the consultation comes after the fact, or is initiated at a staff level instead of a leadership level. They urged the agencies in this case to initiate consultation early and to take it seriously.

Shifting Routes:

For the most part, tribes are satisfied with the current configuration of air tour routes. Any consideration of changes in those routes would require immediate consultation with these five tribal governments.

State and Local: (Arizona, Clark County, Nevada, Flagstaff and Grand Canyon airports)

Need for Balance:

Arizona State officials are looking for a win-win solution, and will support this outcome however they can. The Office of the Governor has not taken a position on these issues.

Impacts to Economy and Business:

The airport managers at Grand Canyon and McCarran (Las Vegas) are committed to supporting their air tour business tenants. In addition, for Clark County and Las Vegas the air tour industry is a critical piece of the larger tourist economy; a stable and profitable air tour industry is considered important.

Congressional: (staff for McCain, Reid, Franks)

Need for Resolution and Balance:

A congressional staff member emphasized the need for resolution of the issue. “We thought the issue was resolved in 1987, but obviously it was not, and that is why the USIECR was brought into the picture.” He believes the two agencies must work together if there is going to be success.

Other congressional concerns include safety -- “Safety is the primary concern. Everything else is secondary. If people don’t have confidence in the safety of their trips, this is all useless.” And, balance – “Beyond safety, we want a healthy balance of uses in the park, allowing people to use the park, but not abuse it.”

Aviation Stakeholders:

Air Tour Operators and Associations: (Air Grand Canyon, Grand Canyon Airlines, Helicopter Association International, Papillon Airways, Sundance, US Air Tour Association)

Need for Balance:

Many air tour operators understand that noise from their aircraft can be intrusive on the park experience. They understand the need for some balance and protection of the visitor experience in the Canyon, and point to the original purpose of the park – to protect the resource for the enjoyment of visitors now and in the future. They also point out that they are providing an alternate visitor experience, for example, for those who are elderly or disabled, and that their visit to the Canyon leaves no environmental footprint. They say the natural resource is not impacted; plants and rocks are not touched; litter and human waste are not left to be disposed of. An operator explained that he and others can be respectful of areas that are off limits, and that they can also provide interpretive experiences for areas that can't be accessed by hiking or rafting.

Although operators spoke of their willingness to come to a negotiating table, and some were very interested in a collaborative process as opposed to an agency-only effort, most said they have little to offer in terms of further compromise. They believe they have already made sacrifices in the interest of restoring natural quiet, they said, and have nothing left to give. “Don't ask us little guys to meet you in the middle – the middle is already behind us.” Or, from the larger operations, “We've spent millions changing fleets and routes, and no one gives us credit for that. Don't ask any more of us.” Some expressed a willingness to make minor adjustments.

Need for Resolution and Certainty:

Almost all interviewed agreed that a certain future was paramount. “We must know the rules and they can't be changing every year or so.” Operators have made difficult decisions to revise business plans based on what they think the future holds. Some have already invested in new quieter technology and hope that this will secure their businesses for the future. They ask for action from the agencies that provides long-term answers for operators struggling with business in an uncertain world.

“We want action, not just a ritual mating dance.”

Precedence:

Air tour operators for the most part fear that the Park Service, many environmentalists and some Native Americans have a hidden agenda to remove all air tours, and perhaps eventually all aviation, from national parks. They see the effort to restore natural quiet to Grand Canyon as a dangerous step along that path. Noise is the first issue, according to many, and then it will be visibility, and contrails from commercial airliners. They suspect that many would like to return all park lands to pre-European conditions. They are definite in not wanting these regulations to apply to any other park.

Impact to Business/Equity and Fairness:

Many operators remind NPS that the original Grand Canyon purpose did not prioritize among the different visitors or users of the resource. Yet they feel that their businesses are being denied access unfairly to the park. “Are the lederhosen and hiking boots winning over the chinos and the loafers” asked one?

Some operators have already invested in quiet technology, or will be able to in the future. The small operators cannot afford to make the switch. “I’d have to sell all seven of my planes to buy one quiet technology aircraft.” Many asked for a solution that would not hurt any operator, or operator group, more than another. Some suggested that the agencies promote quieter technology with incentives for operators. Management of allocations can also be used to provide incentives.

Some feel strongly that they have a right for their businesses to grow. If the demand is there, they say, we should be able to grow, as long as we’re not disturbing people. There are also concerns about the level of caps and the method for calculating them based on only one year. Some see other airlines doing better with their allocations, and feel unfairly discriminated against.

Standard for Natural Quiet/Definition of Substantial Restoration:

Many operators felt that the substantial restoration definition is too strict and that the definition of “day” needs revision. It is not feasible to have a standard based on detectability and levels below ambient sound, they say. They favor the FAA airport noticeability standard and suggested that it be applied to the Grand Canyon to determine visitor impact. “It’s ridiculous to have a standard that can be violated by a cricket rubbing its legs together.” The point is to protect the visitor from intrusion, and they ask the agencies to come up with a reasonable standard before inviting the participation of stakeholders.

Others believe that both the safety and the noise issues have been solved. With no accidents since the designation of the current SFAR and a dramatic drop in complaints, they are confident that the science will show that substantial restoration has been achieved.

Modeling:

Many believe the modeling capability is seriously limited in its ability to accurately evaluate the restoration of natural quiet.

Operational Changes:

If the solution involves changes in operations, operators have wishes and concerns. Some hope for lower minimum altitudes below the rim of the Canyon in certain locations. Most would like the curfew hours minimized to allow more air tours. Few were willing to consider seasonal periods with no overflights, but some were willing to consider route adjustments. “Let’s find accommodation, let’s be reasonable.” Those operating at the east end insist on preserving those scenic rights.

Relationship between FAA and NPS:

Many perceive an inherent weakness and unfairness in the FAA position. The agency lost its right to promote aviation under the Clinton administration, and is left with only safety as a mandate. The Act gives authority to NPS to recommend that FAA develop regulations, with FAA in a safety review role only. Aviation interests want to be sure that FAA has a primary role in any rulemaking.

Possible Exclusions from Regulations:

Commercial Airlines:

The air tour industry is divided on the issue of regulating commercial airliners to aid in the restoration of natural quiet. Some felt that they were never part of the original intent of Congress,

and that it would be impractical to deal with them; others felt that if they are a major contributor, they should be included.

Tribal Governments:

Some felt that Hualapai should be excluded from the noise cap. Several operators spoke of existing or anticipated partnerships with Native American tribes which they want to preserve.

Commercial Airlines: (Air Transport Association of America)

The commercial airlines industry hopes to be exempted from any regulations based on noise levels at Grand Canyon. They believe that although noise from their planes is detectable, it is not necessarily annoying. Commercial airlines are currently regulated under the Airport Noise and Capacity Act, and the Overflights Act of 1987 and subsequent court rulings conflict with that Act. Regulating the commercial airline industry would strike at the core of the business of transporting people and goods, and could impact the integrity of the national airspace system, affecting the timeliness and efficiency of the system. In addition, changes to routes and operations would have environmental consequences. As routes were lengthened, speed and altitude adjustments would increase emissions and fuel usage. Route changes could also simply shift impacts to other areas. Commercial airlines are concerned that their involvement in Grand Canyon issues would set a precedent for similar demands by other public land managers.

Like other aviation interests, commercial airlines need certainty. They are uneasy with the current situation, and hope for resolution as soon as possible.

Military: (Department of Defense)

The Department of Defense (DOD) fears any precedent that might be applied over other public lands. They must be able to fly over parks and wilderness areas as they do now. When conflicts arise, the DOD negotiates on a case-by-case basis.

General Aviation: (Aircraft Owners and Pilots Association, individual pilots)

General aviation pilots currently do not have to file a flight plan and are required to stay above 2,000 feet from ground level at the rim. They do not want to be regulated in terms of routes, altitude and decibel levels. They feel that their contribution to noise is very small, infrequent, and occurs at random times.

This interest group hopes for exemption from any rule-making provisions.

Business Aviation: (National Business Aviation Association)

Like commercial aircraft, these business and corporate jets fly at high altitude, and also hope for exemption from any rule-making provisions.

Specialty Aviation: (Southwest Safaris, Locations Southwest and Production Services)

There are other small aviation businesses that use Grand Canyon and adjacent areas as part of their service. These include those who fly over unique natural resources as part of geological and archaeological educational programs. They believe they are protected by the interstate commerce clause and by the constitution in their right to travel from one destination to another across state lines. In addition, there are companies who are hired to fly both fixed wing and helicopters to

facilitate filming of movies, commercials, documentaries and public service announcements. They feel that the SFAR was drawn much too liberally, particularly with respect to the Little Colorado Gorge.

Conservation Stakeholders: (Friends of Grand Canyon, Grand Canyon Trust, Grand Canyon Wildlands Council, Sierra Club, National Parks and Conservation Association, Sierra Club, Wilderness Society

Goal: Unanimously, primary goal of conservationists interviewed was the substantial restoration of natural quiet, as defined by Congress and the courts.

Nature of the Resource:

The conservation community speaks passionately about the inherent uniqueness of the Grand Canyon. It is a symbol of the power and grandeur of nature for the country and the world. They talk in terms of the “aesthetics of silence and the aura of the wildness,” and the ability of the Canyon to offer significant emotional and spiritual experiences to the visitor. “Parts of national parks are the only places where you can hear America.” They are concerned about the future generations, and whether or not decisions being made today are going to change the experience of the Canyon forever. “The natural soundscape is a resource of the park – a resource that the Park Service is mandated to preserve.” Air tours are destructive of that resource, and to most conservationists the ideal would be to eliminate them. But, most are realistic and know that is not possible.

Clash of Values:

Conservationists see a distinct difference between their values and those of the aviation industry. They see value in the preservation of the resource for the sake of the Canyon itself. They believe the air tour operators are concerned primarily with business, economic growth and the freedom to develop markets. Some conservationists feel that air tour operators are not willing to try to understand the other point of view, and they admit that there those on the environmental side who are not interested in air tour needs. Conservationists also resent the air tour industry attempts to establish themselves at the Canyon and reverse court decisions by going to Congress.

Need for Balance:

Although the noise from aircraft can disturb the ground and river visitor’s experience, most conservationists understand that a balance will have to be struck. There are extremists on the environmental side, they admit, who are not interested in a balance, just as there are on the aviation side.

Equity/fairness: Some say that everyone will have to give up something in order for a solution to be fair to all. No one interest group and industry segment should make an undue sacrifice. Many also said that they would not be willing to give up gains already made.

Precedence:

Many conservationists hope that a solution at Grand Canyon that fulfills the mandate of the Overflights Act will serve as a precedent for other national parks and public lands.

Relationship with the FAA and NPS:

Many conservationists feel that the FAA is not committed to the implementation of the Overflights Act of 1987, and that the status quo for the agency and the air tour industry is advantageous. They believe that the FAA still promotes the aviation industry, in spite of the change in mission under Clinton, and that they dominate NPS in this case. They see clearly that the NPS is responsible for setting standards, and that the FAA is responsible for enforcement of the industry.

Some see NPS staff at the local level as more supportive of conservationist causes than those higher up the chain. Although appreciative of NPS efforts, many feel that the agency is overpowered by the FAA, and intimidated by their perceived Congressional clout. They see themselves as advocating for the resource on behalf of the Park Service, instead of the agency advocating on their behalf.

Air Tour Operations:

Conservationists would like to explore ways of eliminating some routes (Dragon Corridor, for instance), reducing number of flights, and closing part of the Canyon to air tours. They encourage the development of quiet technology, but doubt that a helicopter could ever be truly quiet. Some ask for phasing out helicopters and replacing them with the quieter fixed wings planes. Some suggested a permitting system as with the rafters and outfitters, or a concessionaire arrangement that would give the Park Service more control over the flights. A closed system would also reduce competition pressures on air tour operators, they said.

Conservationists fear that air tours will expand in the future, as they have since the Act of 1987. They want assurance that the business will have limitations, and not be solely market driven.

Definitions and Metrics:

Many agree with the air tour operators that the definitions are inadequate, but conservationist feel that they are too weak, not too strict. Conservationists favor the audibility/detectability standard, rather than the noticeability standard which relies on subjective data.

Recreation Stakeholders: (Arizona Raft Adventures, Grand Canyon River Guides Association, Grand Canyon Hikers and Backpackers Association)

Goal:

Recreational interests, like conservationists, want the Overflights Act of 1987 and subsequent court decisions to be implemented and enforced.

Varied interests:

The non-motorized river runners, who were interviewed, value the natural soundscape for their customers. Also like conservationists, most would prefer to have no air tour operations in the Canyon, but they realize that is not realistic. Some do not object to air tourism on the rim of the Canyon, but do not want it interfering with river experiences. And, some river runners use helicopters for take-outs, and their business interests depend on helicopter presence. [Note: representatives of motorized river running interests were not interviewed during the assessment.] Those hiking in the Canyon dislike aircraft, but the degree of annoyance and noticeability varies with the person, the place, the weather and other factors. "Some people are fanatic about it, even at

high altitude and view even the sight of a contrail as a serious intrusion.” For most, the issue is noise and visibility of low-flying aircraft.

Air tour operations:

Except for those who use helicopters for take-outs, recreationists believe that helicopters do not belong at GCNP, except for emergencies. They favor quiet technology, and fixed wing aircraft. They particularly value the natural soundscape in certain areas of the Canyon, like Dragon Corridor and parts of the Little Colorado.

Definition of “substantial restoration”:

Although the recreationists interviewed felt that the definition of substantial restoration was too weak, its implementation would be an improvement over the current situation.

Commercial Aviation:

Noise from commercial airlines is occasionally annoying, but is not significant for those who recreate in the Canyon compared to air tour noise.

V. PROCESS ISSUES AND RECOMMENDATIONS OF STAKEHOLDERS

All stakeholders were asked what suggestions they had for the agencies, if they were to proceed to design a collaborative stakeholder process for the purpose of resolving overflight noise issues at Grand Canyon. What follows is a collation of these ideas, cautions, and recommendations.

Preparation for a Process:

Many of those interviewed, representing all interests, recommended that the agencies take certain steps prior to convening a group of stakeholders.

- Reconcile any remaining differences between the two agencies' mission, and agree on a model to use
- Select a process, and make decisions about its authority, purpose, composition
- Define the mission and the goals for this newly formed group
- Set the side boards for negotiation – what is on the table and what is off
- Prepare charter and protocols for the process, if necessary
- Be ready with a set of draft ground rules for the group to review
- Prepare materials in a useable form for stakeholders, informing them about this process, the timeline, the expectations of stakeholders; also, prepare materials/white papers about the issues themselves so that all stakeholders can start from the same basis of understanding
- Secure political support for the process from relevant members of congress and others
- Initiate government-to-government consultation with affected tribes and nations

Structure:

There was no objection to forming a negotiated rulemaking committee under the Federal Advisory Committee Act (FACA). Many favored the formality of such a committee and had confidence in FACA to “take care of the needs of the participants.” There was support for integrating NEPA into the rulemaking committee process, as a way of “ground truthing alternatives and potential for consensus.” Although the lead agency for a negotiated rulemaking is the agency promulgating the regulations, offered one participant, there are ways to create a structure where two agencies are co-leading in reality.

The National Parks Overflight Advisory Committee (NPOAG) was cited by many as a good model for collaboration. They praised it for its productiveness and efficient operations, crediting its small size (11).

A stakeholder described the process as “creating a new joint entity that hammers things out with each other in front of everybody.” Others had a vision of the agencies being “two super-important stakeholders among the rest of the us.” In any case, interviewees wanted a decision-making role, rather than an advisory role.

Approach/Scope:

Some stakeholders want a process that results in the settlement of issues relating to overflight noise once and for all. They expressed weariness and frustration. “I want this settled, and I don't want to revisit it every five years.” Others saw this as not feasible given the level of controversy and

polarization. They recommended an incremental approach, where a FACA committee or other structure, took “small bites” and made slow but sure progress, gradually building a good working relationship. Several suggested a combination approach where a model is chosen, regulations developed, and monitoring determines the need for later modifications, similar the plan revision process of the Forest Service

Composition:

Many stakeholders had ideas about composition of a collaborative group and selection of participants.

Size of Group: Some felt the group should be larger rather than smaller, in order to accommodate all those interests who have a stake. There are multiple interests within the aviation and the conservation/recreation groups, for instance. Most urged that the group be as small as possible – 10 or 11, no more than 20 – for the sake of efficiency, more productive discussions, and easier decision-making.

Participant Selection: Most spoke of the need for balance and inclusiveness on the group, and most acknowledged that there are extremists in all stakeholder groups who would not add to the process. Some suggested that the only true stakeholders are the two agencies and the air tour operators, since they are the ones being regulated. Most felt that the variety of aviation interests and environmental interests, as well as other federal agencies and state and tribal governments should be included as participants. Some suggested that “the visitor” should have a seat at the table – a representative air tour visitor and hiking/river visitor.

Stakeholders had criteria for a good participant:

- Willing to listen and learn
- Committed to good faith bargaining
- Passionate, knowledgeable, and well-respected
- Collaborative nature
- Committed to problem solving, not just talking
- Able to represent constituents, company or organization with authority
- Willing to serve as contact for others who are not at the table
- Time and resources to participate

Criteria for a Successful Process:

Again, those on all sides had ideas for a successful process. In general, they asked for a formal process, clear in its objectives, and disciplined and efficient in its operations.

Agency Commitment: Several interviewees noted that it is critical that the process have credibility and be taken seriously by the decision-makers. If the solution is predetermined by the agencies, or the consensus reached by the group is meaningless, the process fails, and participants have been exploited.

Clear goals and roles: Whatever structure is chosen, stakeholders urged that it include an MOU to clarify rights and responsibilities of the agencies, a mission statement for the group being formed, a set of protocols, and identification of issues to be dealt with. In addition, participants should know clearly what their authority and role would be.

Good Communication: Stakeholders want to see an open, honest dialogue between the agencies and among the stakeholders. The more the participants can reveal about their needs and their fears the more productive the process will be. Some hoped that there would be minimal caucusing, that most of the discussions would be in the group as a whole. One interviewee suggested that caucusing could occur in mixed groups of stakeholders.

Education for Participants: Stakeholders emphasized the importance of an educated group of participants in any process. They urged the agencies to provide education for all, covering legal and technical areas, definitions and terms, and allow participants the chance to educate each other about their needs and perspectives. Perhaps a day-long seminar prefacing the first meeting would insure that everyone started on an even footing.

Expertise on hand: Many suggested that there should be policy, rulemaking and operational expertise available to the group as needed. This expertise could come from agency staff or knowledgeable stakeholders who could serve as resources to the group .

Use of Maps: An interviewee said that the use of maps could greatly enhance discussions and negotiations. Maps and overlays could describe priority areas, consider routes, show areas of overlapping interest, and generally clarify participants' needs.

Opportunities for Trust Building and/or Greater Understanding: Some suggested that a process works best if it includes opportunities for shared experiences— field trips, social events, outings, or meals where participants can become acquainted on a more informal and human level. There were also recommendations that early in the process participants exchange worldviews. “Although it’s hard to listen to each other, it might be a good exercise.” Participants could also be asked to “put on each other’s shoes,” to increase understanding for another position. A participant suggested that the process include an official time for “venting,” an escape valve to release whatever resentment, annoyance, simmering anger, or irrelevant comments before focusing on work.

Commitment to the Process: Stakeholders on all sides emphasized the importance of good faith negotiation. They noted that a process can be undermined, or sunk, by end runs to Congress, the courts, or the media. They searched for a way to minimize this possibility, understanding that those rights remain. Ground rules can emphasize the need to be committed to the process and not seek alternative solutions away from the group. Members might sign an agreement to that effect. Some asked that congressmen put in writing support for the process, and ask participants to refrain from seeking solutions from congress without the support of the group.

Commitment should also be demonstrated in consistent attendance at meetings; substitutions, said some, should not be allowed, or be seriously discouraged.

Culture of Collaboration: A successful process should instill in the participants a culture of collaboration, where meeting in the middle is expected and where creativity is encouraged. Creative problem solving can lead to solutions which are more beneficial to all than a simple compromise.

Appropriate, Enforced Ground Rules: Ground rules developed with the group can provide guidance for a good process. Interviewees suggested that ground rules address the following:

- Dealing with the media
- Consistent participation, commitment to stay with the process, refrain from substitutions
- Good faith
- Respect for each other
- Adherence to timeline and deadlines
- Commitment to work within the process; no end runs
- Willingness to collaborate, work with the other side in mind

Enforcement Mechanisms: Some stakeholders mentioned the importance of enforcement mechanisms that have teeth to implement the decisions made by the process.

Incentives for Participation: A stakeholder suggested that the agencies develop incentives to encourage stakeholders to participate in the process. Members of a collaborative process could go together to Congress with specific requests, suggested one interviewee.

Issues for the Table:

Some of those interviewed had opinions about issues appropriate or inappropriate for a collaborative process.

- Definitions and standards – strong opinions on both sides about whether or not these should be negotiable
- Additional methods for achieving natural quiet, including adjusting routes and allocations, altitude, hours, etc. – favored by some on both aviation and environmental sides
- Collection of air tour fees and needed information -- divided opinion
- SFAR restrictions (FAA-Hualapai negotiation) -- divided opinion

Issues to be Off the Table:

Some suggested items that should not be the subject of discussion. There was not necessarily agreement among all stakeholders on these items.

- Definitions and standards – see above
- Contrails
- Native American sovereignty of air space
- Hualapai-NPS boundary dispute
- Alternative science, not start over with new experts
- Court decisions
- Contribution of noise from commercial airlines, business/corporate jets, general aviation, Hualapai

VI. BASIC OPTIONS AND RECOMMENDED STEPS:

The purpose of the Stakeholder Assessment Process was to determine the feasibility of using a collaborative process involving the agencies and key stakeholders to resolve issues related to overflight noise at Grand Canyon National Park. The agencies hope to achieve substantial restoration of natural quiet at GCNP, while also building improved working relationship with and among stakeholders and government representatives. Depending on its design and scope, a collaborative process might also be used to develop new regulations and to serve as a forum for communicating with the public.

Because critical questions still needed to be resolved by the two agencies, it was not possible for the assessment team to recommend a specific design for a stakeholder process. At their meeting on November 12th, the FAA/NPS Interagency Team decided that it would defer a decision on the stakeholder process design options that were presented by the assessment team until it had a chance to further consider the design options. It is anticipated that the two agencies will resolve this question and be prepared to propose a process design at the next stakeholder meeting to be held in Phoenix, in early February 2005.