Appendix A  Comments Received on the Final EA
I am writing to oppose allowing commercial flights being initiated at Paine field. I own a home in the area the field administration designates as "NW4." In the regular reports the field's administrators release, this is one of the major sources that many noise complaints originate from. I am a shift worker and have had my rest interrupted often and, when I do get to sleep normal hours, I still hear much disturbing activity. With Boeing's increased orders and production, I feel this is enough for the neighborhood to bear without additional flights from commercial airlines being added. I am looking forward to retiring and downsizing my life in future years and am very concerned that commercial use and the low-wage jobs and increased traffic that it would generate will de-value my home's worth. With less value owing to close proximity to a commercial airport, my comfortable retirement could be jeopardized.

Please re-consider EA's recommendations, which I believe were based in nonfactual information; similar ventures at past sites bear out that once Pandora's box is opened, havoc ensues.

Sincerely,

Cynthia S. Anderson, RN, Certified Nurse Midwife
4416 - 92nd Street SW
Mukilteo, WA  98275
Dear Editor and Ms. Morgan:

The attached letter is intended to be both my comment to the FAA on the Paine Field EA as well as a general comment for possible publication in the Mukilteo Beacon. I commend the FAA for the work done on this project. As stated in my previous comments to the FAA, the EA appears to be thorough and complete and the findings comport exactly with my experience living for the past 13 years in the immediate vicinity of the project. Let's proceed with commercial service.

Thank you.

John Baker
4705 75th St. SW
Mukilteo, WA 98275

(425) 220-4226(See attached file: PAINE FIELD EA COMMENTS.docx)
Beliefs vs. Science (Opponents of Commercial Air Service vs. FAA)

Does the writer of a letter to the Editor last week even believe the list of perils they allege would result from instituting commercial air traffic at Paine field? Here are the writer’s stated concerns:

“Property values; hours of operation; overflight and flight paths; safety record and accidents; emissions, air quality and VOC's; chemical runoff; health affects; water quality; natural resource protections; bird kill, fuel dumping; short and long-term parking; traffic and access; school safety; decibel levels and noise abatement; vibration and slope stability; existing land uses; future plans; operations oversight.”

Apparently the only thing we don’t need to worry about, (or is it just an oversight?) is whether the sky will fall! Oh, but, what if a plane crashes into the two large water tanks at the NW corner of 44th Ave W and 84th St. W? That would send a torrent of water downhill and wipe out half of Mukilteo! Run people, run! I’m building an Ark! The cult hysteria surrounding this project is phenomenal.

The biggest phony issue of all is the “concern” that the project may crowd Boeing out of using Paine Field to test aircraft. Even the Chamber of Commerce is now espousing this fabricated concern. Boeing stated (and it’s documented in the EA): “Boeing would not be negatively impacted by the addition of commercial air service to Paine Field.” Furthermore, Boeing is concerned that, if Snohomish County were to refuse commercial service at Paine Field, the FAA could withhold future airport improvement funding. Dead issue, Chamber. Or do you big-time Mukilteo business types know what is good for Boeing even better than Boeing? As is usually the case, just mouthing the Mukilteo City Government’s views seldom gains you credibility.

Finally, to the FAA; it is gratifying to see that, in this country, where a Gallup poll in 2010 revealed that fully 40% of the population still believes literally in “the creation,” that at least some decisions can be made based on good science rather than unsupported “beliefs”. Bravo to the FAA for a job well done. Just methodically going through hundreds of crackpot letters (yes you should read some of
them) must have been a real challenge. Let's get on with this project and let the City spend its legal fund reserve buying more (I kid you not) driftwood! Perhaps they can even purchase a mechanical Orca next!!

John Baker  
4705 75th St. SW  
Mukilteo WA 98275  
(425) 220-4226
As a resident of the Edmonds community I oppose the addition of commercial air flights out of Paine Field. The potential for noise pollution and diminished property values is a huge concern for me. As it stands now often times when large Boeing plans are being test we have a lot of noise. Since my home was built in the 1950’s and not under a flight path very little noise dampening materials exist in my home. Having to add those would be a very large expense which many of my neighbors cannot afford.

I would urge the FAA to reconsider the allowance of commercial air traffic out of Pain Field for the above reason as well as the fact that as a frequent flier to the proposed locations I don’t see a need for additional flights. Never have I not been able to get on a flight to Las Vegas, Portland or Spokane. So I really question the need for such a facility at Paine Field.

Lastly, it is my belief that if you open the door to these carriers and flights it is impossible to limit the ever extending expansion as has happened in other places.

To summarize; I oppose the expansion of commercial air traffic at Paine Field because 1. Noise and a decline in my property value as a result. 2. Lack of need for such expansion. And 3. Once the door is open you can’t put the horses back as it were.

Thank you,

Jessie Beyer, CPA
Loughrin & Company, CPA's
Sprague ST
Edmonds, WA 98020
425-774-8815
F.A.A.,

I own a rental house next to the Japanese Gulch. Our tenants complain once in awhile with loud noise created by different jets. Sometimes this occurs during sleeping hours.

Obviously, you can see with consistent flights, the noise alone will vacate our tenants and that doesn't even take into account the extra air pollution.

The summary is our property value will drop and the whole neighborhood will suffer. Mukilteo had a good reputation for a family to live and enjoy the environment. Now, that will only be a memory.

Sincerely,

Greg L. Beyerlein
October 9, 2012

Cayla Morgan  
Environmental Protection Specialist  
Seattle Airports District Office  
Federal Aviation Administration  
1601 Lind Avenue SW  
Renton WA 98057-3356

Dear Ms. Morgan,

I would welcome a commercial airport at Paine Field... in the future, when airplanes are noiseless and create no pollution.

We currently have our share of noise and pollution from Boeing testing and flights, private and vintage aircraft, UPS, Fedex and other usage.

Please, please hold off on making Paine Field commercial – if for nothing else, for our children’s education (studies prove that learning is impacted)!

The citizens of our area are overwhelmingly opposed to commercial air service at Paine Field. We are pro-Boeing and pro-aerospace industry. The “convenience” of a closer airport is greatly outweighed by the many, many detrimental aspects it would have on our children, environment, property values, health, economy and quality of life.

Sincerely,

Netta Beyerlein

P.S. I appreciate your title as Environmental Protection Specialist and am confident that you will do all you can to protect our environment. Thank you.
this ruling. Appendix P raises this discussion but did not evaluate it as related to environmental consequences.

It is a shame that the FAA, Paine Field Airport and Snohomish County are willing to destroy Mukilteo and other long-standing communities to generate revenue from commercial expansion.

I hope you fully consider my comments and assess the true in the moment decibel noise impacts and environmental consequences to the citizens.

Sincerely,
Liza Patchen-Short
1408 Goat Trail Loop Road
Mukilteo, WA 98275

----- Forwarded by Cayla Morgan/ANM/FAA on 10/15/2012 03:03 PM -----
|-------->
| From:   
|-------->
|"Dorota $ Janusz Bochniarz" <jbochniarz@frontier.com> 
|-------->
| To:     
|-------->
| Cayla Morgan/ANM/FAA@FAA, 
|-------->
| Date:   
|-------->
| 10/14/2012 07:07 PM 
|-------->
| Subject: 
|-------->
| FAA Environmental Assessment 

Page 3a states that no additional parking will be needed when airport becomes operational.
That is hard to believe that that parking is just sitting there and not being used for something else.
Also, in addition to the 225 passengers there will be airport workers and venders that will need to park.
Not to mention overnight parking area. Knowing reality, the parting space is planned for minimum and the need for more will be discovered upon start of operations.

Alternatives Chapter
Page B.4, first paragraph states:
Horizon Air will have departures ranging from 6 to 10 per day for approximately 350 days per year and Allegiant Air will have with departures ranging from 2 to 10 per week over 365 days. This would result in approximately 112,000 enplanements (people boarding aircraft at Paine Field) in 2013 increasing to approximately 238,200 enplanements in 2018. So that means that would be doubled use in 5 years. What about at 10, 15, and 20 years? What about increasing to more departures?
It says that it is not intended, but doesn’t say that it is guaranteed.
With no prediction past 5 years, it is scary to what may happen after that especially with double in 5 years.

Use of Other Area Airports was stated as not an alternative. What about Arlington Airport? It is further away from desired living area. If traveling at peak hours you would be going against traffic and not have to fight with existing Boeing traffic. Having Airport near the Casinos may be nice for those people and there is lots of room to grow (lots of farm land that is cheaper to buy compared to Everett and Mukilteo).

Environmental Consequences Chapter
Changes can be found on the following pages;
Page D.2, first paragraph
Page D.3, second paragraph
Page D.3, last paragraph and Page D.4, Table D2 clearly show that no action would reduce emission over the next 5 years and preferred alternative would increase them. Since we don’t know what growth will occur in years 10, 15, and 20, we can’t assume that after 5 years that number will stabilize.
Whatever little effect on the environment it has right now it can be assumed that if growth is chosen the effect will continue to add up over the years.

Either I am confused or somebody else is. If no action alternative would result in pollutants increasing than expanding airport would increase them further, right? In that case, we are damaging our community for convenience sake. Mukilteo has been chosen as one of top 10 small best towns to live in in USA. If we make choices that damage our environment, we won’t keep up that status.
Again this paragraph states that emissions will increase even if commercial flight is not introduced. Again, why are we wanting to make things worse?

So, not only would we get emissions form planes but also from more cars? How can this assessment say that there would be no impact on the community?

VMTs that will be added will not have significant impact on natural resources or energy supply? How significant do you need it to be? We should not only look at the energy used for the VMTs travelled, but also at the energy that will be wasted sitting in traffic. I don’t know if you had the pleasure of trying to get to Everett or Marysville in the hours of 2 to 6 pm, but it is already not fun. If more VMTs is added, traffic will be even worse or freeway will need to be expanded some more.

Even thought the 65 DNL contours don’t go into residential areas touch and go flight tracks hit several communities and 9 schools and departure/arrival flight tracks hit several communities and 5 schools. I don’t know if you ever lived under one of those, but they can get loud to the point of having to stop conversations till the plane leaves. Having 6 to 12 departures a day to begin with and can be assumed 6 to 12 arrivals a day that would be 12 to 24 take offs/landings per day. Assuming that most of these would occur in the hours of 6 am to 10 pm that would result in a plane landing/taking off every 40-80 minutes. That is of course if airlines don’t chose to increase the number of flights.

Were airport service workers driving to and from included in the numbers? Also, as I stated earlier the traffic during peak hours is already bad. Also, referring to air traffic, if there is going to be at least one operation an hour, when will the other planes using the airport already, like small private planes and Boing testing of planes, be done? Or is the plan to push Boing completely out and expand the airport into its space?

In addition, the following graphics have been updated;

Figure D1 Future Noise Contours (2013) With & Without Project, page D.24
Figure D2 Future Noise Contours (2018) With & Without Project, page D.25
This assessment was very difficult and tiresome to read. I may have had more comments if it wasn't so long. To make the long story short, whatever impact was shown, it was ruled out as not significant. As we know, even small negative changes can become big if all added together. So, air pollution, noise, and traffic by itself may not be a big issue, but all added together may make a nice community not livable any more. And the growth of the community that is anticipated may not be a good thing if it ends up changing the dynamics of the community form middle and high class to low class based on the kinds of jobs the airport will offer. Also, I have noticed that some of the impact produced by this change is counted as not significant if things are changed like more roads to decrease the traffic. The best solution to the problem would be not to change anything and keep Mukilteo as a community where people want to raise a family. We don’t want to end up like Seattle where schools are being closed because families can’t afford or want to live there.

Sincerely,

Dorota and Janusz Bochniarz
Hi Cayla,

I am strongly against allowing commercial flights to commence from Paine Field. I recently purchased a home in the Lake Serene area, which is directly in the flight path of the main runway. My understanding was that the public was promised that commercial flights would never occur at Paine Field. I oppose commercial flights as they would greatly decrease property values and cause a decline in the quality of life that residents currently enjoy. While it's true that large aircraft already fly in and out of the airport, the frequency is low and mostly contained to weekdays later in the morning through the afternoon. Right now, about 10-20 flights occur per day involving passenger jets and rarely do they fly at night. If Paine Field is opened up to commercial traffic there will be no limit to the number of flights or time of day when they can fly. The noise and pollution impact will be detrimental to the many homes and schools in the communities surrounding the airport that were built and purchased under the promise that no commercial traffic would occur. Even if only a few airlines are currently looking to start flights out of Paine Field, more flights will most certainly be added over time until the area is unlivable. I ask you to please reconsider this decision for the residents and taxpayers that will be affected by this and will face losing our home value and quality of life.

Jeffrey Buchanan

----- Forwarded by Cayla Morgan/ANM/FAA on 10/04/2012 04:08 PM -----
Good Day,

My name is Rickie R Byers. I am 61 years old and have lived in the Lynnwood area most of my life. I currently live just north of the Alderwood Mall about 4 miles from where I grew up. When I was young Paine Field was an active Air Force Base and there were jets taking off and landing numerous times during the day and sometimes at night. Right after Paine Field was decommissioned as an Air Base air traffic dwindled to a trickle of what it used to be. In recent years there has been an increase of air traffic primarily because of increased Boeing activity. Personally, it doesn’t bother me at all and, like when I was a kid, I like the looks and sounds of the planes flying overhead. And while I do recognize the concerns of people residing very close to Paine Field I have to question why they never thought that the possibility might exist for future expansion. After all, it is a perfectly good air field. To me that is like buying next to Husky Stadium and then complaining that the crowds are getting too big and loud on game days. There is very little, if anything, that continues status quo for long periods of time. People moved from Seattle to the suburbs to escape the hustle and bustle but now want to prevent others from doing the same. Not only would commercial flights out of Paine Field be an economic boost if enough flights were planned with some from Canada for example, then a Customs Station would also increase the efficiency for Boeings incoming flights of parts from overseas. I think this is more of a case of the NIMBYs. People want economic growth so long as there is not the least bit of inconvenience to them. People want more prisons as long as they are not built close to where they live. I think the amount of time that has been taken and the amount of money spent has been more than sufficient to be able to go forward with allowing commercial flights out of and into Paine Field.

Respectfully,
Rickie R Byers
This is an unattended mailbox, please don't reply. (See attached file: document2012-10-05-181039.pdf)
As a resident of Mukilteo and extremely close to the field I would like to send an email to say that I would not like to see any increased airline traffic out of Paine Field. We have quite a lot of airline noise as it is and I for one would vote not to have more. I support the Boeing company but because of the increase in production their is already increased noise, I live with what's going on now but not a regularly scheduled airline.

Thank you for your time
Colleen Chandler
Registered voter and Mukilteo resident
Dear Ms. Morgan,

As a long time resident of Mukilteo I am deeply disappointed with the report that was issued today. How was this outrageous decision reached; what research was conducted to achieve this result? You obviously did not speak to the tax paying residents directly about this decision. We do not want added already congested skies for our lovely city that was recently named "One of the Best Cities in the US". We are very proud of our city and enjoy a very good quality of life, this will surely change should you move forward to grant Commercial Air Carriers to land at Paine Field. It will add more congestion to our already busy streets, due to heavy ferry traffic. We do not want to become the next crime ridden SeaTac, we the residents of Mukilteo take great pride in our neighborhoods and treasure our lovely community. Our real estate properties will surely take a tumble, who wants to live in an area where it takes you 30 minutes plus just to get to I-5! You say that it will not add further congestion to our already busy streets but you are wrong, it will!

Please do not destroy our lovely area that we treasure. What if it were your neighborhood or city, would you want to live right next door to a Commercial Airport? I think not, no one does, we already have to deal with the Boeing planes that fly in our area, believe me it does get very noisy.

Kindly reconsider your decision and do not approve Paine Field for Commercial traffic.

Sincerely,

Rachel Coil
Cayla Morgan  
Environmental Protection Specialist  
Seattle Airports District Office  
Federal Aviation Administration  
425-227-2653  
----- Forwarded by Cayla Morgan/ANM/FAA on 09/18/2012 03:52 PM -----  

From: Mary Cote <mary.o.cote@gmail.com>  
ANM-SEA-ADO, Seattle, WA  
To: Cayla Morgan/ANM/FAA@FAA,  
Date: 09/14/2012 12:39 PM  
Subject: Paine Field Passenger Service - YES! ! !
From: VMC <vmc@victorcoupez.com>
To: Cayla Morgan/ANM/FAA@FAA
Date: 10/15/2012 05:56 PM
Subject: Reponse to EA for allowing commercial flights at Paine Field (PAE)

October 15, 2012

Ms. Cayla Morgan
Environmental Protection Specialist
Seattle Airports District Office, Federal Aviation Administration
1601 Lind Avenue S.W.
Renton, WA 98057-3356

Dear Ms. Morgan:

With all due respect, the FAA response to my questions is an insult. Since you provide no substance in your response and continue to ignore the facts, I see no point in commenting further, but I will to be on record. Since comments are limited to the updated EA, and the updated version shows no attempt to reasonably analyze the impacts of adding a fourth commercial runway to the region, below are my comments on your update.

My only hope is that someone with much more money than I contest your outrageous “findings” in court.

Sincerely,
Victor Coupez

Comments on the updated EA
How can you in any stretch of the imagination say the converting an airport from Class IV to Class I has “No Significant Impact” on the surrounding communities and ecosystems? Especially one with a residential population so close to the airport.
Your draft EA states in the title “Environmental Assessment for Amendment to the Operations Specifications for Air Carrier Operations, Amendment to a FAR Part 139 Certificate, and Modification of the Terminal Building” yet the draft EA ignored the effects of changing the role of Paine Field from Class IV to Class I to allow commercial flights. Where is the analysis of ALL potential flights; even if limited to the routes and aircraft proposed by Allegiant and Horizon?
You used the projections given by Allegiant and Horizon even though Allegiant’s projections contradict the pattern it has established. For example, in Bellingham, Allegiant increased to 32 flights per week in six years, yet you accepted their statement that they will only increase to 10 flights per week in five years at Paine Field! WHY? Where is the “hard look” REQUIRED by Section 706.1 of FFA Order 5050.4b? Where is the hard look at the change to allow unlimited commercial flights?
No further study or approval is required for Allegiant Air or Horizon Air to increases the number of flights to the capacity of the terminal and airport and to allow these flights at any time of day or night.
The scope of the draft EA goes out five years. Why do you assume that an airport role change only requires a five year projection? Why did you use the airlines flight projections and not the capacity of the terminal and runway?
Where was the active, early, and continuous public involvement? You created a document was incomplete and flawed and only asked for public opinion after you had conveniently ignored the full scope of what is proposed and only studied that portion which supports your self defined “preferred option”.


Marcia Curtis

I have lived in Lynnwood over 40 years, directly under the flight path of planes coming from and going to Paine Field. If a plane would fall from the sky, it would land on my house - or so my grandsons tell me. I personally believe that the airport is under used and has the potential for a lot more aeronautical activity. Opening it up to some airlines for passenger flights seems to make a lot of sense. How great it would be if we didn't have to drive that horrible drive to Sea-Tac to catch a flight. It would certainly help the local economy financially as well as bring a few more jobs to Snohomish County. Go for it!!

Thank you.
Ms. Morgan,

We’re writing you to express our opposition to expanding Paine Field for commercial air travel. When we moved to Mukilteo 17 years ago, we were told this would not ever be an issue. This will definitely effect the quality of life in our small town, and we are baffled that the FAA could research and find otherwise. Our speedway and other roads in the area are already congested, and pure logic says added passenger travel will make it more of a headache. Our kids attended Fairmount Elementary right next to Paine Field and noise by pure logic will also increase. These things will impact our property values as well. Look at almost any other airport and the surrounding residential area is less than desirable. The expansion at SeaTac was supposed to meet this area’s needs without using Paine Field. To make the trip to the airport slightly shorter for a few in Snohomish County at the expense of all of Mukilteo and the surrounding areas seems very unfair. Please FAA, reconsider this poor choice and recognize the full and negative impact on those living locally.

Steve and Genelle Doten
Michael Dreier
Edmonds, WA

I oppose any commercial flights in or out of Snohomish County Airport (Paine Field). I have concerns about the new portions of the NEPA study that do not take into account the increase in Boeing air or vehicular traffic due to new constructs (orders are coming in every day) or the increase in required servicing of existing aircraft that will require additional flights into Paine Field. Also, in the assessment, the increase of night flights into Paine Field are given a weighted average of an additional 10dB. In fact, although jet engines are quieter today the TWA for calculations and frequency of increased traffic (if applied correctly by the analyst) would certainly show an increase the noise levels in areas adjacent to Paine Field due to less ambient noise in the communities themselves. Incidentally and increase of 18dB to 20dB would have been more realistic. It is clear through FAA internal communications they simply do not understand the application of NEPA requirements or what data should be considered for this particular project. Lastly, the increase in traffic would likely affect the Mediated Role Determination (re zoning 8000 acres from industrial use to residential) and this would certainly have an impact on the environment of the surrounding areas. As the rules for commenting prohibit any reference to “quality of life issues” this construction would raise, I am not referring to them here.

Thank you

Michael Dreier
Edmonds, WA
Cayla Morgan
Environmental Protection Specialist
Seattle Airports District Office
Federal Aviation Administration
425-227-2653
----- Forwarded by Cayla Morgan/ANM/FAA on 09/18/2012 03:55 PM -----

From: Madison Murphy <madison.e.murphy@hotmail.com>
ANM-SEA-ADO, Seattle, WA
To: Cayla Morgan/ANM/FAA,
Date: 09/15/2012 10:00 AM
Subject: Paine Field Airport Final EA

I was born and raised in Mukilteo and my parents work for Boeing and United. We are an airplane family. I cannot wait for you guys to open a passenger terminal up at Paine field! It makes so much sense and would be very convenient plus more job opportunities. This is a great positive thing to bring into the community, thank you!!

-Madison Erin
10-12-12

To: cayla.morgan@faa.gov
Cayla Morgan Environmental Protection Specialist
FAA Seattle Airports District Office
601 Lind Ave. SW Renton, WA 98057-3356

david.suomi@faa.dot.gov
David Suomi
FAA Regional Administrator
Northwest Mountain Region

Dear Cayla and David,

I am writing to comment on the Final September 2012 Environmental Assessment (EA) developed to assess the impacts of amending the Part 139 operating certificate for Paine Field for commercial operations for Horizon Air and Allegiant Air.

I am specifically commenting on the new and revised sections of the Final EA including the updated noise contours, Chapter D Environmental Consequences and Appendix F Noise Impact Analysis.

The noise contours define average day and night noise levels over a 24-hour period but to not disclose or evaluate the actual noise decibels received by the surrounding residential and 4f community for each flight proposed in the Preferred Alternative as it actually happens. The FAA’s day and noise level average method does align with the requirements of local noise ordinances. City allowed noise levels for Snohomish County, the city of Everett and the city of Mukilteo are determine by individual decibel events. The take off of an airplane can result in a 140-decibel reading. I am requesting that before a determination is made to amend Pat 139, a study is completed that looks at the actual in the moment noise decibel levels local residents will be impacted too. It is not acceptable to use the FAA’s method that only looks at average noise levels over a 24-hour period. If a plane flies over my house resulting in a decibel reading of 140 once every hour averaging this with the other minutes my house and ears are not shaking is not a defensible analysis of impact to the community.

The EA states, “This Environmental Assessment used the FAA developed Integrated Noise Model (INM), Version 7.0a to develop the 65 DNL noise contours and evaluate noise and Land use impacts. This is consistent with the Federal Aviation Administration FAR Part 150 Land Use Guidelines. These guidelines indicate that residential development is incompatible within the 65 or greater DNL noise contours. Other noise sensitive land uses, such as schools,
hospitals, churches and nursing homes are also considered to be incompatible if located within the 65 DNL contour. By 2018, the change in the 65 DNL noise contour compared to the No Action Alternative would be an increase of approximately 17.6 acres.” The additional area impacted by this action includes residential dwellings within the cabinet shop on 40th Ave West, residences on 44th Avenue West and a church on 78th Street SW. The 65 NDL contour is not compatible with this existing land use.

The EA also states, “The designations contained in this table do not constitute a Federal determination that any use of land covered by the program is acceptable or unacceptable under Federal, State or local law. The responsibility for determining the acceptable and permissible land uses and the relationship between specific properties and specific noise contours rests with the local authorities. FAA determinations under Part 150 are not intended to substitute federally determined land uses for those determined to be appropriate by local authorities in response to locally determined needs and values in achieving noise compatible land uses. “ The EA analysis has not considered local noise ordinance regulations and standard local city methods of analysis for noise impacts.

Traffic Analysis: The fundamental flaw in this process is that the Environmental Assessment is looking at the impacts of only a few fights while getting it through opens the door for unlimited flights of the airplane models and carriers applying, without further assessment or mitigation. The traffic analysis study needs to be redone to evaluate to study the full capacity of the door that will be opened for flights with this ruling. Appendix P raises this discussion but did not evaluate it as related to environmental consequences.

It is a shame that the FAA, Paine Field Airport and Snohomish County are willing to destroy Mukilteo and other long-standing communities to generate revenue from commercial expansion.

I hope you fully consider my comments and assess the true in the moment decibel noise impacts and environmental consequences to the citizens.

Sincerely,

Janice L. Fahning
4624 73rd Street SW
Mukilteo, WA 98275
June 8, 2012

CAYLA MORGAN, ENVIRONMENTAL PROTECTION SPECIALIST Seattle Airports District Office
Federal Aviation Administration
1601 Lind Ave. S.W.
Renton, WA 98057-3356

Dear Ms. Morgan:

On February 02, 2010, I sent you an eight page Word document relative to COMMERCIALIZATION of PAINE FIELD – IMPACT ISSUES. [COPY ATTACHED]. In that document, I posed a vast number of questions to which I requested and expected the courtesy of a reply. More than two years later, I continue to await your reply.

Based on recent information, I wish to express some additional comments and again request your reply to the issues/questions contained in my February 02, 2010, document and the question/issues contain in this message.

There is serious need for a fair and transparent process that follows NEPA. That means an Environmental Impact Statement! The citizens have a right to a reasonable, potential and foreseeable activity as part of the analysis. The FAA must not force our communities to subsidize an activity that many of us don’t even want here. Why should we subsidize it? The airlines, not the taxpayers, should pay the full mitigation costs for all "reasonable, potential and foreseeable activity." Fair is fair

THE FAA NEEDS TO CONSIDER THE FOLLOWING POINTS

Ø The FAA is charged with following the National Environmental Policy Act (NEPA) when coming to a conclusion. They must rely on 3 basic concepts for predicting future air service demands: Reasonable, potential and foreseeable activity. The FAA must fully comply with NEPA when making its ruling on the EA. To that end, the FAA should immediately order a new Environmental Impact Statement with the inclusion of two new gates of undetermined size and scope and their REAL maximum capacity.

Ø Request an EIS with a scope that extends out at least 20 years, and preferably, 30 years. The draft EA only looks out to 2016 further minimizing the downstream impact analysis. This limited scope skews the entire assessment including but not limited to impacts from air emissions, noise, traffic, parking, water runoff and impacts to children required by Presidential Executive Order.

Ø Request an EIS be conducted with a scope that addresses foreseeable potential activity levels resulting from a change in the airport operating certificate to allow commercial service. The public and our region deserve a fair, transparent and honest decision making process, particularly when the decision involves an irreversible regional game changer.
Ø The FAA should conduct the scoping process properly, inviting all governmental and non-governmental interested parties.

Ø The reasonable, potential and foreseeable impacts of two large gates of undetermined size and scope operating 24 hours a day seven days a week must be studied.

Ø Since the draft EA failed to properly scope out the impacts of changing the airport role and operating certificate to allow scheduled service, we ask that the "No Action Alternative" be the default alternative until a comprehensive full-capacity EIS is completed and compared to alternatives.

Ø I urge the FAA to reject a flawed minimal assessment that concludes with a “Finding of No Significant Impacts” (FONSI) in changing the role of Paine Field. Such a conclusion/finding is a vast distortion of the truth. The system should not allow incremental “approvals” that, by design, circumvent requirements to mitigate impacts beyond certain thresholds.

I look forward to your reply.

Sincerely,

MAXWELL S. FISCHBACH

"überleben zu kämpfen an einem anderen Tag" [LIVE TO FIGHT ANOTHER DAY]
CAYLA MORGAN, ENVIRONMENTAL PROTECTION SPECIALIST
Seattle Airports District Office
Federal Aviation Administration
1601 Lind Ave. S.W.
Renton, WA 98057-3356

Subject: COMMERCIALIZATION of PAINE FIELD – IMPACT ISSUES

BACKGROUND:
I live at 18704 41st Place West, Lynnwood, 98037. I have lived in South Snohomish County for over 30 years. My current residence was purchased being fully cognizant of the Boeing plant location and that Paine Field was designated as a GENERAL PURPOSE airport. With the repeated assurance of government that it would remain so, there was more than a reasonable expectation that our government officials were being truthful and would honor the Mediated Role Determination (MRD). Thus, we would retain our quality of life level and our legal right to peace, quite and tranquility in our own homes. WE THE PEOPLE, do not desire to contend with conditions similar to those around SEA-TAC and BOEING FIELD.

Below, I address issues and problems as delineated by Save Our Community (SOC) as well as numerous issues elicited from discussions with some of the residents living in the 16 homes within my immediate cul-de-sac. Many of these issues have been ignored and not addressed by either the Federal Aviation Administration (FAA), Snohomish County Government (SCG) nor the Environmental Assessment (EA) report. Many of these issues are very serious in nature and by failing to address them, with proposed resolutions; we could well be looking at class-action lawsuits. These concerns are real, have validity and need to be addressed in an equitable manner; not just blown off as it currently appears has happened. To disregard the concerns of the thousands of residents who reside in South County is unacceptable. As a former Federal Auditor and manager, my cursory review of the EA confirms validity of issues raised by SOC. From a professional audit standpoint, the Environmental Assessment (EA) is totally lacking in scope and is bias toward one side. It clearly was not intended present a fair and equitable analysis of the issues confronting all of us.
Below are a limited number of issues, which need to be seriously addressed before any commercial flights in or out of Paine Field. There are many more, however, due to volume of the issues, I have listed only the following:

**ISSUES-PROBLEMS**

**POOR TIMING OF THE DRAFT EA AND COMMENT PERIOD:**
One would hopefully expect that the intent and purpose of NEPA would have been reflected in the timing of the release of the EA and public hearings but sadly, that was not the case. It was disappointing that it took requests from the city and citizens to get some modification to the written comment period and hearings, yet two hearings are still being held on the first two workdays following the holidays.

**DRAFT EA FAILS TO COMPLY WITH NEPA LETTER AND INTENT:**
The EA provides useful information but fails to provide full transparency concerning assumptions, scope and analysis in a number of areas. Outside of construction activities, all assessment is based on minimal flight activity proposed by the airlines themselves, and thus the EA minimizes the overall impacts in virtually all areas.

**THE DRAFT EA SCOPE IS FLAWED – KEY FINDING:**
The EA document is fatally flawed as to its scope. The scope should be matched to the change of the airport’s role and to the airport’s capacity, not to the low level of flights initially suggested by the airlines or their conservative estimates of growth. ALL OTHER IMPACTS TIED TO FLIGHT AND PASSENGER LEVELS MUST ALSO INCLUDE ASSESSMENT OF MAXIMUM ACTIVITY IMPACTS.

**ASSESSMENT OF MAXIMUM SCHEDULED COMMERCIAL SERVICE NOT INCLUDED:**
Why study the impact of a small number of flights claimed by those two airlines motivated to get started when they will be under no obligation to restrict their flights or those of other airlines that want in? The public deserves and NEPA demands an assessment of the reasonable worst case associated with changing the airport role to allow scheduled service.

**SCHEDULED SERVICE STARTUP - UNCONSTRAINED ACTIVITY:**

If scheduled service is initiated out of Paine Field, the airport cannot discriminate against other carriers that want in. So why does the EA only discuss the impacts from 6 to 10 flights/day from Horizon and 2 to 10 flights/week from Allegiant? If the FAA allows for a “role change” for Paine Field then they should be forced to consider the impacts from “unconstrained activity” as required by their own regulations. We

**ISSUES-PROBLEMS (continued)**

already have to periodically deal with late night and early morning over-flights which rattle items in the house, wake people, animals (some of which become extremely frightened), set off sensors and seriously impact individual mental health in addition to causing sleep depravation. This issue has totally been ignored.

**OVER-FLIGHTS:**
Over the last several years, there has been a noted increase in extremely low level over-flights. They appear to have become somewhat more frequent and certainly much lower with resultant impact of more disruption relative to our peace and tranquility within our homes. We currently are forced to deal with period late night and early morning over-flights. These interrupt our sleep, cause items to rattle and vibrate in the house, pets to become extremely frightened, set off sensors and seriously impact individual mental health in addition to causing sleep disruption and depravation. This issue has totally not been addressed.

**FAA NOISE & DECIBEL BENCHMARK:**
The FAA uses a benchmark of 65 decibels in a 24-hour period to evaluate noise. In order to hide the high level of noise created during over flights, the FAA uses statistical method of “data smoothing” in order to keep the noise level you experience low. The technique essentially eliminates the highs, lows in statistical data, and is designed to minimize the true high decibel impact that is experienced. Its use is not applicable in this situation. When an aircraft flies over, the decibel level at time is the true decibel level. Spreading out that reading over a 24-hour period is dishonest and is fraudulent on their part. If you have just experienced a 110 or 120 or whatever noise level, that is the impact which you deal with and not a computational bogus number spread across many hours. This would be the same as telling the Haitian people that their 7.0 earthquake is really not that bad, as it only equates to \(0.2916\) (less than 1 on the Richter scale) over a 24 hour period. How absurd!

**DISRUPTIVE NOISE AND THE PAINE FIELD NOISE HOTLINE:**
I have repeatedly been advised by Dave Waggoner, Director-Paine Field, that only the FAA can address the issues of low flights over residences, control the flight path, altitude, etc. & mitigate the disruptive noise levels impacting us within our homes. Repeated attempts to communicate with the FAA Seattle over the issue been met with total rudeness and callous disinterest on the part of the FAA. I have been told each time, “.Don’t tell us, go tell Paine Field management about your problem…” While Paine Field does have a Noise Complaint System, it is specifically designed to act as a data collection point for frustrated residents due to low and noisy over-flights. The system is designed for collection of statistical
data as to plane number, owner, type of aircraft, etc. It is not designed to resolve any complaints. Data is
published in an on-line monthly report and that is the end of it. Mr. Waggoner has more than once told
me that they do not communicate the complaints to the FAA (who does not give a damn even if Paine
Field did). Essentially, they entire complaint system is nothing neither more nor less, than a system
designed to allow residents to vent. No resolution to complaints and problems can be resolved if those
who have the control

ISSUES-PROBLEMS (continued)

to change and modify the root causes are not advised or do not give a damn! This situation is an outright
insult by government!

NEED FOR A COMMERCIAL AIRPORT HERE:
Last time I checked, the Puget Sound Regional Council had issued a documented position on future need
of an other regional airport. Their stated position was, if SEA-TAC was to build an additional runway (a
3rd runway), that there would be NO need for an additional commercial airport in the regional for well
into the future. SEA-TAC has built the 3rd runway. It is open and functional. Therefore,
commercialization of Paine Field is absolutely unnecessary. In fact, it is further waste of taxpayer dollars
and at an excessive cost to the majority of resident in the area.

WHO PAYS FOR A TERMINAL?:
The vast majority of citizens in South County are strongly and strongly against commercialization of
Paine Field. The idea that either Federal or County governments would even consider funding any part of
a terminal for commercial flights is unacceptable. With the vast majority of residents against the
commercialization of the airport, the idea that government would force the taxpayers to fund something
they are so diametrically opposed to is unconscionable! Alaska/Horizon and the “Allegiant airlines can
pay for their own terminal. It is not the responsibility or duty of the taxpayers to do so. This is supposed
to be government by the people; for the people. It is not supposed to be government for government and
the hell with the people!

FUEL DUMPING AND HEALTH ISSUES:
Fuel dumping is a common practice around commercial airports and is an ongoing problem for
homeowners in the SEA-TAC and Boeing Field areas. A friend of mine, who lives near Boeing Field, has
told me of the ongoing problems relative fuel dumping over his home and the effects on his roof.
Additionally, this toxic material is becoming a serious health issue. Those of us who chose to live here
did so on the basis that we would not be subjected to the problems similar to those who live near and
around SEA-TAC. Exposure to environmentally toxic fuel as well as over-flight caused pollutants places
all the residents as serious health risk……THIS IS SERIOUS AND MUST BE ADDRESSED.

WHO GAINS AND WHO LOSES?:
The only gainers in this are those looking to make money at the expense of the vast majority of residents. That includes the land developers, landowners and dishonest politicians as well as government looking to expand its power and control. The taxpayers and citizens lose their quality of life.

THE EA IMPACT AREA:
The EA and FAA indicated impact area is vastly understated and done so on purpose. Basically, as I understand it, the area excludes numerous residential areas that are already dealing with extremely low noisy over-flights now. Additionally additive over-flights for commercial purposes would severely impact

ISSUES-PROBLEMS (continued)

my neighbors and I in our cul-de-sac and the surrounding area. Being several miles outside of the EA defined impact zone only validates the SOC contention that the EA study is flawed, represent a bias interest and is not equitable in it’s findings.

DRIVING TO SEA-TAC:
Many who argue that due to traffic congestion and the distance, they want commercial flights from Paine Field to preclude their drive to SEA-TAC. Unfortunately, this is an invalid argument. Those who profess that position also knew that Paine Field was a committed General Purpose airport with NO commercial flights at the time they chose South County as their place of residence. They were fully aware of the location they choose to live and it’s proximity to SEA-TAC. It is unreasonable, unfair and ludicrous that now they want to force the vast majority to give up their quality of life for their own selfish desires. They could have chosen to live closer to SEA-TAC and they still can…they have no right to force us to acquiesce to their self serving wants and desires.

VAST MAJORITY:
I challenge Snohomish County Government and the Federal Government (FAA) to hold an election and let the valid, living (non-deceased) citizens vote for or against the desire of Paine Field commercialization.

FEDERAL GOVERNMENT – THE FAA:
Talking with many people in the area, one strong under-current appears that many who oppose the commercialization of Paine Field, do so with extreme feelings and convictions. Numerous comments have been made that the Federal Government-FAA has a “Gestapo” mentality and manner. As far as they are concerned, the FAA can keep their funding and get out of our Snohomish County. The taxpayers will maintain the airport through higher property taxes with the full intent of Paine Field remaining a GENERAL PURPOSE AIRPORT ONLY! Last time anyone checked, it was supposed to be “GOVERNMENT BY THE PEOPLE; FOR THE PEOPLE!”

LOSS OF VALUE:
Fully not addressed in any lucid manner has been the issues of loss of value and fair and equitable due compensation for such loss. Impacted items consist of but are not limited to:

- **PEACE, QUIT AND TRANQUILITY BOTH INSIDE AND OUTSIDE OF YOUR HOME**
  
  How do you mitigate for this situation?

- **HEALTH ENVIRONMENT AND THE ADDED TOXIC DANGER TO ALL IN THE AREA**
  
  How do you mitigate for this situation?

- **ISSUES-PROBLEMS (continued)**

- **SCHOOLS AND THE ENTIRE LEARNING ENVIRONMENT AS A WHOLE**
  
  Who and when is the soundproofing of our schools going to take place?

- **OUTSIDE ACTIVITIES THROUGH OUT THE AREA**
  
  How do you mitigate for this situation?

- **NOISE MITIGATION EFFORTS RELATIVE TO ALL RESIDENCES AND BUILDINGS**
  
  Who and when is going to soundproof our residences and offices?

- **DIMINISHED PROPERTY VALUES**
  
  In 1997 Randall Bell, MAI, Certified General Real Estate Appraiser, licensed real estate broker, and instructor for the Appraisal Institute, provided the results of his own professional analysis to the Orange County Board of Supervisors. Comparing sales of 190 comparable properties over six months in communities near Los Angeles International Airport, John Wayne Airport, and Ontario Airport, Bell found a diminution in value due to airport proximity averaging **27.4 percent**. Bell has also developed a list of over 200 conditions that impact real estate values -- airport proximity is categorized as a "detrimental condition." (from [http://www.netvista.net/~hp各种/propval.html](http://www.netvista.net/~hp各种/propval.html))

Exhibit 5 from a report titled “Airport Diminution in Value” submitted to the Orange County Board of Supervisors by Randall Bell, MAI. Mr. Bell is the principal of Bell & Associates, Inc. Of Santa Monica and Laguna Niguel. He holds an MBA in Real Estate from UCLA, is a Certified General Real Estate Appraiser and a Licensed Real Estate Broker. Mr. Bell is an instructor for the Appraisal Institute, was the Chair of the Litigation Seminar in 1994 and 1995 and has published numerous articles in various legal and professional publications. January 9, 1997.
Based on what occurred in and around the SEA-TAC area, I purpose an alternative and request a response from the FAA, SCG, Horizon/Alaska Airlines, Allegiant Airlines and the developers who are so desirous...
of wanting to destroy our quality of life and threaten both our financial wellbeing and our health in South Snohomish County.

IN LIGHT OF YOUR DESIRES, I PURPOSE THAT RATHER THAN DESTROY MY QUALITY OF LIFE, PUT HEALTH AT JEOPARDY AND DIMINISH MY PROPERTY VALUE; YOU PURCHASE MY RESIDENCE AT CURRENT MARKET VALUE (PRE-DIMINISHED COMMERCIALIZATION VALUE) PLUS ADDITIVE MOVING/RELOCATION COMPENSATION.

UPON REVIEW AND APPROVAL BY MY ATTORNEY, I AM PREPARED TO VACATE THE PROPERTY IN A 60 – 90 DAY PERIOD (PERIOD NEGOTIABLE) FROM THE DATE OF OFFER, ACCEPTANCE AND PAYMENT.

GOVERNMENTAL TAKING OF OUR PROPERTY VALUE WITHOUT EQUITABLE AND JUST COMPENSATION, DESTROYING OUR RIGHT TO PEACE AND TRANQUILITY IN OUR OWN HOMES AND ENDANGERING OUR HEALTH DUE TO EXPOSURE TO ENVIRONMENTAL TOXINS IS TOTALLY UNACCEPTABLE TO THE VAST MAJORITY OF SOUTH COUNTY RESIDENTS.

I have addressed only a few of the issues related to commercial flight at Paine Field. I respectfully request the proponents of commercial flights at Paine Field consider what I have stated and ask that both the FAA and Snohomish County Government respond to my questions in writing at the above P.O. Box.

Sincerely,

MAXWELL S. FISCHBACH
Below are the comments received today.

Cayla Morgan
Environmental Protection Specialist
Seattle Airports District Office
Federal Aviation Administration
425-227-2653

----- Forwarded by Cayla Morgan/ANM/FAA on 09/24/2012 04:53 PM -----

From: "sam Freeman" <nwohoto@cnw.com>
ANM-SEA-ADO, Seattle, WA
To: Cayla Morgan/ANM/FAA,
Date: 09/24/2012 02:27 PM
Subject: Commercial Air Traffic at Paine Field

Hello

I am a resident of Mukilteo and have worked here for 27 years. I have a business and home in Mukilteo, Near Paine Field, but then again most of Mukilteo is near Paine Field. To open this airport to commercial traffic work hurt not only my business but others as well. Boeing will not stay here if they have to play second fiddler to commuter planes using the run ways. Not to mention all the noise pollution. The only people who will benefit are those with construction companies wanting to make money building at the airport and people flying to Vegas...if they that much disposable income, they can take the shuttle to Seatac. I AM OPPOSED TO COMMERCIAL AIR TRAFFIC AT PAINE FIELD!!!

Thank You

Samuel Freeman
4731 88th ST SW
Mukilteo Wa 98275

----- Forwarded by Cayla Morgan/ANM/FAA on 09/24/2012 04:53 PM -----

From: dgacsa@aim.com
ANM-SEA-ADO, Seattle, WA
To: Cayla Morgan/ANM/FAA,
Date: 09/24/2012 03:34 PM
Subject: Paine Field flights
October 9, 2012

Cayla Morgan, Environmental Protection Specialist, Seattle Airports District Office, FAA
1601 Lind Street
Renton, WA 98057-3356

RE: Paine Field Final Environmental Assessment

Dear Ms. Morgan:

The City of Everett has reviewed the September, 2012 Final Environmental Assessment for “Snohomish County Airport, Paine Field.” We are deeply appreciative of the detailed analysis and hard work that have gone into the process of determining that there is no significant impact with respect to the proposed commercial service into Paine Field. The City supports this finding and wishes to go on record with some brief comments.

1. We support and agree with the FAA’s assessment that there will be no significant adverse impacts on the environment from the proposed action. We appreciate that the analysis includes detailed review of the potential impacts that many in the community near Paine Field feared would be caused by the proposed action, especially related to noise, traffic, land use, air quality, and impacts on other uses at Paine Field. We find the analysis of these impacts to be both thorough and reasonable. The FAA has responded to these concerns both in the analysis and throughout the process and we believe its conclusion to be well-founded.

2. We support and agree with the FAA’s conclusions that the proposed passenger terminal operating at full capacity, as reported in Appendix P, would result in no significant adverse impacts on the environment. Although this scenario is not considered to be reasonably foreseeable, we appreciate the FAA including this analysis to address the question based on input from the community.
3. We also note, and agree with the FAA, that there will be no significant adverse impacts at or in the vicinity of Paine Field when the proposed action is considered cumulatively with other past, present or reasonably foreseeable projects.

This Final EA is the latest in a series of studies that have extensively examined significant aviation, land use and environmental issues associated with Paine Field over the past 20 plus years. Some of these studies have included a specific focus on impacts associated with air service at Paine Field such as: noise, transportation, air quality and other elements of the built and natural environment. These analyses include:

- Boeing Environmental Impact Statement for the Boeing Master Plan Expansion to build the 777 Airplane (1991), and several addenda thereto;
- Paine Field Master Plan update (1995);
- Southwest Everett/Paine Field Subarea Plan and EIS (1996);
- Paine Field Master Plan update (2002);
- Report on Mediated Role Determination for Paine Field (2007);
- Feasibility & Impacts of Scheduled Commercial Air Service at Paine Field, Thomas/Lane Associates (2008); and,

This extensive body of work supports the conclusions reached in the EA: that the proposed action will result in no significant adverse environmental impacts. Also of note is that these plans and studies resulted in considerable infrastructure investment, using both public and private funds, in the immediate vicinity of Paine Field and SW Everett. The resulting improvements support increased flight and business activity in the vicinity of the airport.

Sincerely,

Allan Cliffen
Planning Director / SEPA Responsible Official

Cc: Mayor Stephanson

Everett City Council
October 2, 2012

Cayla Morgan
Environmental Protection Specialist
FAA Seattle Airports District Office
1601 Lind Avenue SW
Renton, WA 98057-3356.

Re: Environmental Assessment for Commercial Air Service at Paine Field

Dear Ms Morgan:

On behalf of the City Council for the City of Snohomish, I would like to officially submit our comments regarding the proposed commercial air service at Paine Field in Snohomish County, WA. We believe the environmental assessment for this project is sufficient and needs no further study. Furthermore, we support the preferred alternative of amending operations specifications for commercial air service at Paine Field.

Paine Field is one of the finest and most modern up-to-date airports in the nation. It has a 9,050-foot runway and the latest operating structure and equipment. It currently operates below 35 percent of its capacity, which continues to trend lower. Commercial air service does not require expansion of the existing geographical footprint of the airport nor does it involve the introduction of any type of aircraft not already using the airfield. Further, it is compatible with all other uses of the airfield including Boeing operations. Maintaining and growing our job base is essential to provide future employment opportunities for our communities. Without job growth our region may experience declining economic health, standards of living and qualities of life.

Commercial air service supports job growth and would create millions of dollars in income, business revenues and taxes that we believe are important for the economic future of Snohomish County. Our review indicates no need for additional analysis and we urge the FAA to approve the environmental assessment for Paine Field commercial air service.

Best regards.

Karen Guzak
Mayor

c: City Council
To Cayla Morgan

Today I happened to notice an article in an old copy of the Edmonds Beacon. The article was about the FAA plan to allow scheduled commercial passenger air service to fly from Paine Field. I am a resident of the city of Lynnwood and find this news very disturbing. I also am very concerned about how little notice to the public has been made. I have not seen or heard any report about this on radio or TV news or read about it in the local Lynnwood newspaper.

Under current operation of Paine field, my wife and I find the noise from commercial and business sized planes irritating as they fly overhead. We hear them in our house and any conversation we have in our yards or driveways with friends, neighbors or visitors has to be put on hold until the plane has passed. With 29935 additional flights it will be much worse and we find it totally absurd that the Noise Analysis conclusion of "there is no significant change to noise sensitive uses ".

I do understand that my wife and I represent only one household, but I have heard my neighbors express irritation about the noise from these planes at the current level of operation. I think the general populations of Lynnwood, Edmonds, Mountlake Terrace, Alderwood Manor, Mill Creek, and Mukilteo also feel the same irritation from the noise of these planes. I do not believe the effect on these populations was properly considered when the Noise Analysis was prepared.

This is unlike the communities around SeaTac airport where the airport already had regular scheduled passenger flight activity when people made their home purchases. For us in the communities around Paine Field, military activity was phasing out or gone and existing activity was limited to private planes, occasional freight, some business planes and the flights conducted by Boeing in their activities of producing and selling commercial airplanes. In addition the county had made a commitment to maintain this status for Paine Field.

With out adequate notice to the public and fully comprehensive environmental and economic assessments of the real impact of the the proposed plan, I find the actions of the FFA and Snohomish County to be a breach of trust and a disservice to the public and these communities.

Michael Hart

17811 40th Pl W
Lynnwood, WA 98037
Cayla,

As a homeowner in the Mukilteo area for 27 years, and in the flight path of Paine field, I find it completely outrageous that the FAA is trying to put this incredibly weak environmental assessment as a reflection of the impact that allowing commercial service at Paine field will have on this community. The FAA is well aware that once commercial air service is
allowed at Paine field, there will be no stopping the airlines from increasing the flights per day well beyond anything that was considered in the study. Mukilteo and the surrounding communities will be left footing the bill as property values plummet, health issues rise, and our seaside lives are destroyed to benefit corporate interests.

We demand that the FAA perform an full environmental impact study that considers the full potential air traffic that could possibly be accommodated at Paine field. We demand that the airlines pick up all costs associated with mitigation of the impacts and the costs of bringing any commercial air service to Paine field. We demand that the FAA stop trying to dish out more corporate welfare by putting forth this poor excuse for an Environmental Assessment and dumping this disastrous plan on our communities.

The bottom line is that we don't want commercial air service at Paine field. This air field should be reserved as an aero space center and used to assist Boeing's plane manufacturing needs and preserve the thousands of jobs they contribute to this area. In this time of high unemployment, how could the risk of pushing Boeing out of Paine field and this community possibly be viewed as beneficial to anyone except the corporate airlines the FAA so seems to cherish.

I fly from SEATAC into San Jose airport every other week. Air service from Paine field would be a waste of tax dollars. I easily take this bi-weekly commute from SEATAC airport. Not only that, I see over and over how devastating the expansion of air service is on the communities around these airports that were once small municipal airports and have expanded into commercial service.

This Environmental Assessment for commercial service at Paine Field is just another example of a federal government agency destroying the lives of middle class tax payers for the self interest of corporate america. We realize that we can't stop airlines from coming into Paine field. However, there is no reason why we shouldn't expect the FAA, a federal agency and public servant of the people, to conduct a full environmental impact study on the full potential of air traffic at Paine field and ensure that the financial burden of any commercial service at Paine Field falls on the corporate airlines who stand to benefit and not the citizens of these communities.

Sincerely,

Ron Hine
14427 59th Place West
Edmonds, WA 98026
425.787.9814
From: kris huxford <krishuxford@comcast.net>
To: Cayla Morgan/ANM/FAA@FAA
Date: 10/15/2012 01:42 PM
Subject: FAA ruling on commercial air flights Paine Field

Cayla,

This is also addressed to you and those who are doing the assessment. I do not believe that they have taken into account that the numbers used are from 2008 records and the fact that the cities surrounding the airport have also grown in population.

Subject: FAA ruling on commercial air flights Paine Field

Dear County Executive and County Council and Representatives Liias, Shin and Roberts,

I am writing with great concern over the FAA ruling that there would be no significant impacts on the areas surrounding Paine Field. This is outrageous and untrue. I live under the flight path next to Japanese Gulch and can attest to the fact that aircraft is extremely loud and disruptive. I fully support Boeing and the Dreamliner 787 program. I have to stop talking or turn up the volume on my tv at night when the Dreamlifter takes off over the water. The noise carries for 5-10 minutes after it has flown over my home. When I am at the school, the impact is even greater. The teacher has to stop what she is doing until the noise has gone. Mukilteo Elementary is 1/8 mile or less than 300 yards from Paine Field. There is no way that does not impact learning. There are 12 elementary schools, 4 Middle schools and 4 High Schools within Mukilteo/Everett that are impacted as well, not counting the other cities and schools. When I visit family in Snohomish, there is an impact, in Lynnwood 1-2 miles from Alderwood mall area, there is an impact.

So, I am hoping that you will consider those of us who live here that it would have a huge impact on not just the school kids in their learning but the wildlife as well. Not to disregard the environmental impacts that we have not even discussed. What about the fuel dumping that occurs when they need to "lighten" the load??? I have smelled it numerous times and it lingers for quite some time. I knew moving to this area that there would be noise from airplanes, ferryboats and trains. I have lived with this for over 10 yrs and with the addition of the 3 newer historic flight museums, we have even more noise and disruption. My windows shake as the lifter comes and goes and that never happened when I first moved here. There are numerous aircraft that come in extremely low and fast. Several weeks ago, a plane decided to come in at less than 100 feet over my home 4 times within a 20 minute period of time. Please tell me that is normal???? I do not think so. Those that make these decisions, do not have to put up with the excessive noise. The value of my home has dropped in value over the last 4-5 years even though I have spent money making upgrades to add value to it.

By the way, the numbers that the FAA used for the "study" are outdated and no longer what the true numbers are. The number of complaints have risen quite a bit since 2008 and therefore, is not an accurate way to assess the impacts that commercial airline noise could bring to this area. Also, the number of flights doubled within 2 years. I support Boeing, but NOT commercial air. We will have no say in the amount of flights per day, when they can fly or how often. We cannot stop it once it is here. The fact that Horizon dropped out should tell you that there is no reason to allow Allegiant in. Their aircraft is even louder than the 787 since the fleet is old and outdated with Q400 planes.

I also need for you to take into account the impact that excess noise does to our kids in school. It can cause unnecessary stress levels to increase causing negative impacts on learning. There was an article in the Seattle Times in 2003 regarding this study that was done. It did not include Paine Field at the time because we did not have this threat hanging over our heads that more air traffic could be possible here in Everett/Mukilteo area.

Reading the most recent report that stated that Horizon opted out had to do with the recession and the improvements made at Seatac airport changed their minds. That seems like a big impact that changed
their tune. We do not need more jets making runs to Las Vegas. My husband travels for a living and does not want to fly out of Paine Field. He would rather make the drive to Seatac and deal with what works and has been since the early 1940’s. We do not need 4 flights a day to increase to 20 + over time. This is the wrong decision allowing the FAA to use old data to support this and have such a huge impact on the communities surrounding Paine Field. It was zoned residential/commercial back in 1978 for a reason. Remember the Medicated Role Agreement? This allowed people to live and work close to Boeing and attend schools that were close as well. We have 20 schools in the flight paths and that does not count all the pre-schools, elementary, middle and high schools (two hundred twenty two (222) )that I could find just in the flight area around Mukilteo and Everett, that have sprung up in the last 30+ years.

Enough with allowing the FAA to control my environment and where I live. We need for them to choose a better source for studying the environmental impact, how it affects ones health and the learning ability of our kids in school. Yes, we have a great school district and good numbers but if you spent a day in a classroom, you would have a better understanding of how the noise really does affect our kids. I know since I have been in the classroom helping out for the last 2 years and hearing the planes coming in and out plus the number of engine runs that happen and how loud those are.

Thank you for hearing my side of things. I am not an expert, but I have lived here for over 10 years and I do not want to wake up in the middle of night more than I already do. I have to remind my daughter that it is just the planes and not anything else. She is aware of 9/11 and worries about that happening here. I have to tell her its Boeing doing the flight runs to get the amount of air time in order to certify the aircraft before it's delivered to the buyers.

Regards,

Kris Huxford
Mukilteo Old Town Resident
Dear Cayla,

The FAA’s final Environmental Assessment ruling is extremely disappointing to us because it gives the commercial airlines the go ahead to start up scheduled air service without paying any of the costs associated with flying out of Paine Field. Those costs would be passed on to the citizens in Mukilteo. Not only would we pay to foot the bill for this service, clearly a service we don’t want, we would see our property values plummet due to the loud noise and lowered quality of life living so close to Paine Field. Not sure why I’m calling it a service when in fact it seems to me that having commercial flights out of Paine Field would cause a number of significant negative consequence for the residents of Mukilteo. The hours of operation would really be a problem as we’ve been told we wouldn’t be able to limit the hours of operation of commercial flights. Not a good idea for a family oriented community, who very much need sleep at night. This community was built with the mediated role agreement in place and that has now gone by the wayside with the FAA and county council’s lack of commitment for that agreement. This is just such a slap in the face to the people who have lived here believing an agreement is an agreement. This should have been thought of prior to a community building up housing very close to Paine Field. Why is it that the FAA seems to think there will be no significant impact once commercial flights begin? I think this is such a set up to have the citizens of Mukilteo to pay for it all and what do we do when you find you were not correct in your assessment?

The Boeing Company is another reason why commercial flights should not be allowed to fly in or out of Paine Field. Boeing would take a back seat to the commercial airlines and then, what? They would be forced find another location to take their business. That would really hurt Mukilteo and the surrounding areas with regard to employment and the businesses that do business to aid Boeing, not to mention that if Boeing relocated so would those businesses that provide service to Boeing and therefore would again hurt the
community by good paying jobs leaving the area due to commercial service at Paine Field. The type of employment that would be present should Paine Field begin commercial service would be low paying jobs.

Another negative aspect once commercial service should begin is that it would bring in a high volume of traffic to an already congested area. Sea Tac Airport is so close to Mukilteo that it is seems unrealistic to build up commercial service here. When we fly out of Sea Tac we really don’t see the need for another airport. Especially since just an hour from Mukilteo to the north commercial service is available out of Bellingham. Why not build up the commercial service out of the Bellingham location? This seems to be the answer to the airlines' need to bring in more service. When flights began out of Bellingham, the amount of flights they studied was not the amount of flights going in and out of that location today. There are many more. Another flawed study to get an airport in under the guise of low number of flights so that the residence of that area have pay to price, not the airlines who are profiting from it all. Maybe the FAA should take another look to see that the impacts would be much greater than they studied. Just take a look at the Bellingham airport to understand the truth in it all. And, the FAA should also take another look to see that Bellingham is the answer to more flights. It is up and running and having a lot of success. How many flights do the airlines need with 2 airports so close together? Supposedly Horizon is no longer interested, doesn’t this change the playing field. Or was that just another ploy to get in commercial flights? Just seems to us that this is not the place to build commercial flights or the time with an economy that is just beginning to see signs of improvement. Take another look and say NO to commercializing Paine Field.

Rethink this because this decision because we believe it will most certainly ruin our community, as we now know it, our quality of live, and precious environment.

Sincerely,

Shannon & Mike Jay
October 11, 2012

Ms. Cayla Morgan
Federal Aviation Administration
Via email cayla.morgan@faa.gov

RE: Paine Field FONSI

Ms. Morgan,

As citizens and property owners in the City of Mukilteo, we would like to formally submit our objection to the proposed Paine Field commercial expansion and the recent FONSI decision. Current impacts from Paine Field activities are significant. Disregarding the cumulative impacts of existing, proposed and future activities is negligent and harmful to the people living here.

As required under NEPA, your agency is required to review service demands for ALL reasonable, potential and foreseeable activity. Therefore, your review must include proposed commercial service in addition to existing and future activity. You have failed to meet these requirements. The FONSI decision is flawed and unconscionable.

Among other things, the impact area under review is suspect. Certainly the FAA recognizes that the impacts of the airport are not restricted to airport property boundaries. This proposal would create real and significant negative impacts to human health and safety, wildlife habitat, livability, and property values. Current impacts are completely disregarded by Snohomish County and the FAA. Future cumulative impacts must be addressed.

It is clear to anyone living here that a 20-30 year EIS is more than warranted. The county and airlines must be required to address ALL adverse impacts to include over-flight, chemical runoff, decibel levels, school safety, emissions control, water quality, parking, access, natural resource protection, future plans and operations oversight. Property owners and taxpayers should not have to pay the costs, tangible and otherwise, for the greedy demands of Snohomish County and the airline industry. It is the job of the Federal Government to protect the rights and interests of an established residential community and not just those of big business.

The draft Environmental Analysis was flawed. The FONSI decision was wrong. A full, unbiased EIS should be required as set forth under NEPA. Failure to do so would be an injustice to the citizens of this area.

Best Regards,

Brian and Kristin Kirk

Cc: Snohomish County Executive
    Snohomish County Council
October 9, 2012

Cayla Morgan
Environmental Protection Specialist
FAA Seattle Airports District Office
1601 Lind Avenue SW
Renton, Washington 98057-3356

Dear Ms. Morgan,

Thank you for accepting comments on the Federal Aviation Administration (FAA) Final NEPA Environmental Assessment (Final EA). This Assessment specifically addresses the introduction of commercial air service at the Snohomish County Airport/Paine Field and construction of the modification and modular expansion of the Airport terminal.

Purpose and Need of the Proposed Project: Page A1, first paragraph.

Significant taxpayer dollars have been spent on the Final Environmental Assessment. Allegiant Air and Horizon Air are specifically referenced. The Final EA should also provide that other FAA approved carriers, who have previously met the requirements of 49USC - Section 44705 and received operating certificates for commercial services in other similar environments, to also have the right to provide scheduled passenger air service.

In the event that either of the airlines referenced, Horizon and Allegiant, revise, delay, or cancel their proposed plan, it does not seem practical or financially prudent for the FAA to require additional environmental assessments for an approved FAA certificated carrier that would provide a similar level of service, including flights and terminal utilization. Particularly, if previously approved and current certificated carriers are in good standing with the FAA, and comply with FAA proper equipment standards and requirements of the FAA to safely operate.

The following provided by reputable parties, including the FAA, must be considered as they directly apply to the decision making by the County’s elected officials on passenger air service at Snohomish County Airport/Paine Field.

[As stated in 49USC, Section 44705, “The Administrator of the Federal Aviation Administration shall issue an air carrier operating certificate to a person desiring to operate as an air carrier when the Administration finds after investigation, that the person properly and adequately is equipped and able to operate safely under this part and regulation and standard prescribed under this part.”]

Further, in the FAA’s June 4, 2008 letter to David Waggoner, Airport Director, Paine Field, the FAA states that, Grant Assurance 22(a) requires the County “to make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds, and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.” In furtherance on this Assurance, an airport sponsor is obligated to make areas available for lease on reasonable terms and to negotiate in good faith for
the lease of parcels to conduct aeronautical activities.

Environmental Consequences:

The Final EA and thoroughness of examining community concerns should provide confidence to Snohomish County that a comprehensive review process and professional assessment has been completed. The data has been analyzed and the detailed assessment managed by reputable parties has been included in the Final EA.

In the Cumulative Impacts section of the Final EA (D40), it states that the “Preferred Alternative will not have a cumulative significant impact on historic, biotic, hydrological, or other environmental significance. Therefore, neither the No Action nor the Preferred Alternative would result in any significant adverse impacts at or in the vicinity of the Snohomish County Airport/Paine Field when considered cumulatively with other past, present or reasonably foreseeable projects.”

Summarizing:
Air Quality — “Anticipated increase will be de-minimis”: Construction of Terminal — “Best Management practices” will be used during construction: Overall emissions standards will be met: Climate — “No scientific indication of when and how climate will change”: Coastal Resources — “Not affected”: Compatible Land Use — “No anticipated impacts or changes to land use as a result of either alternative”: Fish, Wildlife, Plants — “No effect on fish, wildlife, or plants because no protected species are known to be permanent residents on the Airport”: Floodplains — “Not expected to adversely impact any floodplains”: Hazardous Materials, Pollution Prevention, and Solid Waste — “Would not result in any significant impacts”: Historical, Architectural, and Cultural Resources — “No effect”: Light Emissions and Visual Environment — Slight change in the light environment around the Airport due to increase lighting in the vicinity of the modular terminal expansion. Neither of the alternatives would result in any “significant impacts relating to lighting and visual environment at the Airport”: Natural Resources, Energy Supply, and Sustainable Design — “no significant impacts”: Noise — “Under both the No Action and the Preferred Alternatives, small portions of the 65 DNL contour extends off of the Airport and over Airport Road to the East, over Boeing Company property to the north and northeast, over SR 525 and commercial land uses to the south and southwest of the Airport. “Because there would be no non-compatible land uses within the 65 DNL contour and subject to a 1.5 DNL or greater increase in noise level, the No Action and Preferred Alternatives would have no significant impacts on land uses surrounding the Snohomish County Airport/Paine Field. Implementation of the Preferred Alternative would not result in the disruption of any communities, the relocation of residences or businesses, or result in any changes to existing or planned land uses.”: Secondary (Induced) Impacts — “no anticipated significant induced impacts as a result of the proposed actions”: Socioeconomic Environment, Environmental Justice, and Children’s Environmental Health and Safety Risks — “no significant changes”: Surface Transportation — “will not cause any Snohomish County arterials or any Washington State Department of Transportation (WSDOT), City of Mukilteo or City of Everett intersections to change from acceptable to a deficient level of service”: Water Quality — no significant impact:
Wetlands – “not expected to impact any wetland areas or the wetland mitigation bank”:

For many years, Snohomish County Airport/Paine Field has experienced state of the art commercial aircraft utilizing the airport. Paine Field operates around 35/40% capacity. With general aviation, executive jet use, maintenance services, aerospace manufacturing/expansion, and general airport development, passenger air service will have minimal impact on overall airport utilization while providing economic benefits and travel opportunities for Snohomish County residents and businesses.

Thank you,

Jim Langus
902 Westminster Circle
Everett, Washington 98203
October 15, 2012

VIA E-MAIL (CAYLA.MORGAN@FAA.GOV)

Cayla Morgan  
Environmental Protection Specialist  
Seattle Airports District Office  
Federal Aviation Administration  
1601 Lind Avenue, S.W.  
Renton, WA 98057-3356

Re: Final Environmental Assessment, Snohomish County Airport Paine Field - Comments by City of Mukilteo, Washington

Dear Ms. Morgan:

The following are the comments of the City of Mukilteo ("Mukilteo") concerning the Final Environmental Assessment, Snohomish County Airport Paine Field ("FEA"). Despite all its new verbiage, nothing much has changed in the FEA over that which was reported in the Draft Environmental Assessment ("DEA"). The FEA persists in the same errors that tainted the DEA, including, but not limited to:

(1) Segmenting the operational portion of the four-part project description such that the FEA’s analysis is limited to the impacts of the entrance of only two air carriers, Horizon and Allegiant, who have currently requested entrance, where the Project Description manifestly includes a Part 139 Operating Certificate, requiring, by law, the admission of any air carrier that so requests, and which, therefore, vitiates the attenuated “project’s” independent utility;

(2) Further limiting the terminal expansion segment of the Project Description, and its associated analyses, to the 29,350 foot modular terminal, where the FEA plainly acknowledges that the airport’s approved ALP, the only document guiding airport planning, still contains provision for a 30,000 square foot permanent terminal, as well as the “modular terminal,” and where the modular terminal alone, Appendix Q, Letter L, p. L.102, as well as the potential combined coverage of the two which remains unanalyzed, will allow for far greater numbers of gates than reported in the FEA [“The proposed ‘modular’ terminal building may have capacity to serve other airlines in addition to Horizon and Allegiant Air”];

(3) Declining to analyze the potential for future increased operations over and above the initial two operations, at minimum, as cumulative impacts, on the ground that they are not
“reasonably foreseeable,” where the airport’s Master Plan already anticipates much greater levels of operation than are analyzed in the DEA or FEA, where the ALP includes more than sufficient current and proposed terminal facilities to accommodate the Master Plan projections, and where accepted methodologies exist to forecast the future operations and their impacts;

(4) Skewing the baseline for analysis by “piecemealing the project” such that, even if, for argument’s sake, additional environmental review as promised in the FEA were appropriate for the entrance of every new air carrier and the addition of every new gate, which it is not, the additional environmental analysis would not be based on the “existing conditions” before the project begins, see, e.g., Half Moon Fisherman’s Marketing Ass’n v. Carlucci, 857 F.2d 505, 510 (9th Cir. 1988), but on the impacts of the already approved segment of the project, thus raising the baseline for analysis and concomitantly minimizing the subsequent project’s environmental impacts;

(5) Failing to adequately analyze the project’s potential noise and air quality impacts or propose reasonable measures to mitigate them; and

(6) Declining to perform the necessary environmental analysis within the context of a full Environmental Impact Statement (“EIS”), despite the project’s manifest potential for significant environmental impacts.

I. FAA’S INSTRUCTION THAT IT WILL CONSIDER COMMENTS ONLY ON FEA REVISIONS IS ARBITRARY AND CAPRICIOUS AND VIOLATIVE OF CONSTITUTIONAL DUE PROCESS

As a threshold matter, the instructions given to the public to “specifically cite the new information that is the subject of their comment” [“Notice of Availability of a Final NEPA Environmental Assessment for the Amendment of Operations Specifications for Air Carrier Operations, Amendment of a FAR Part 139 Certificate, and Potential Funding for Modification and Modular Expansion of the Terminal at the Snohomish County Airport/Paine Field,” p. 1], and that “all other comments will not be considered further by the agency,” Id. flies in the face not only of NEPA’s fundamental purpose, of “ensur[ing] the agency will inform the public that it has indeed considered environmental concerns in its decision making process,” San Luis Obispo Mothers for Peace v. Nuclear Regulatory Commission, 449 F.3d 1016, 1020 (9th Cir. 2006), but also of the Due Process mandates of the United States Constitution.

It has long been taken for granted that NEPA “serves as an environmental full disclosure law, providing information which Congress thought the public should have concerning the particular environmental costs involved in a project.” See, e.g., Silva v. Lynn, 482 F.2d 1282, 1285 (1st Cir. 1973). It is also mandated regulatory practice that the administrative process remain open for input from the public until the Record of Decision is signed by the agency finally approving the project. See, e.g., 49 C.F.R. § 611.5 [“T]he NEPA process is completed when a Record of Decision (ROD) or Finding of No Significant Impact (FONSI) is issued.”]. NEPA regulations also preclude members of the public from bringing legal action on matters on
which they have not commented during the administrative process. Finally, one of the overarching principles upon which the governmental process rests is the Due Process Clause of the United States Constitution which guarantees the public not only “notice” of governmental action, but also the “opportunity to be heard” on its merits. U.S. Const. amend. V and XIV. Taken together, these principles require that governmental agencies leave open the scope of public comment throughout the administrative process so as not to arbitrarily limit the public’s right to be heard on the full scope of the project’s impacts at whatever point in the administrative process they are determined.

In patent defiance of these unequivocal mandates, FAA has issued instructions that limit the public’s comments only to those matters FAA designates as having been changed in the interim between the publication of the DEA and FEA. Leaving aside the possibility of error in FAA’s designations, as well as the above requirement to exhaust administrative remedies, it must be abundantly clear that, from a substantive perspective, the matters that have not been changed may have just as great, or even greater, import than those that have been. This is because it is in the failure to rectify lack of full disclosure of environmental impacts that the potential for the greatest impacts lie, and, thus, the greatest potential for violation of NEPA.

Adding insult to injury, and despite the 2½ years, and numerous technical iterations the record demonstrates it took FAA to address the patent inadequacies of the DEA, FAA arbitrarily and capriciously, and in blatant defiance of the Due Process clause of the United States Constitution, failed to respond to Mukilteo’s repeated requests for extension of the 30 day comment period on the FEA to give the public which Mukilteo represents a fair chance to be fully “heard” on the credibility of the complex, highly technical revisions contained in the FEA and its appendices.

Finally, despite Mukilteo’s requests under the Freedom of Information Act, 5 U.S.C. § 552, et seq., (“FOIA”), August 31, 2012, FAA has repeatedly failed and refused to produce the requested documents, for reasons that have, from FAA documents obtained through ancillary sources, become painfully clear. Specifically, those documents obtained through FOIA requests made to FAA by other parties reveal not only that FAA had predetermined that the scope of the project would include a new terminal and lease with Horizon, e-mail from Mike Deller, Bank of Everett, to various recipients, February 2, 2009, attached hereto as Attachment 1 [“... [U]ntil there is a deal struck with Horizon for a lease and an adequate terminal that those [discretionary

---

1 Notably, the Snohomish County Airport/Paine Field Final Environmental Assessment Errata Sheet’s (“Errata Sheet”) list of alleged changes to the DEA omits Appendix Q, Responses to Comments, which itself contains voluminous entirely new purported justifications for the FAA’s findings, which under FAA’s instructions, are justifiably subjects of public comments, as they did not exist in the DEA. The following are the FEA sections and appendices upon which Mukilteo bases its comments: (1) Notice of Availability of a Final NEPA Environmental Assessment for the Amendment of Operations Specifications for Air Carrier Operations, Amendment of a FAR Part 139 Certificate, and Potential Funding for Modification and Modular Expansion of the Terminal at the Snohomish County Airport/Paine Field; (2) FEA Purpose and Need Chapter; (3) FEA Alternatives Chapter; (4) FEA Environmental Consequences Chapter; (5) FEA Appendix D Noise Analysis; (6) FEA Appendix F Traffic Impact Analysis; (7) FEA Appendix G Forecast Reports; (8) FEA Appendix I Traffic VMT Report; (9) FEA Appendix P Terminal Capacity Analysis; and (10) FEA Appendix Q, Letter L – Response to Comments.
grants] and any stimulus dollars will not be issued”), but also that FAA intended, at all costs, to coerce Snohomish County’s compliance with its requests by threats to withhold discretionary funding, ignoring the legally required procedures under, among other processes, 14 C.F.R. Part 16. See, Memo from Carol Suomi to Roman Pinon, Stan Allison, Tim Shaw, Cayla Morgan, Bill Watson, January 8, 2009, attached hereto as Attachment 2 [“The suggestion is to just tell them that we will hold back from giving them any additional discretionary funds until they have successfully negotiated leases with both Allegiant and Horizon Air.”].

Shockingly, and despite repeated, more clear headed counsel, see, e.g., Memo from Joelle Briggs to Carol Suomi, January 8, 2009, attached hereto as Attachment 3; Memorandum from outside counsel Kaplan, Kirsch & Rockwell, January 7, 2009, attached hereto as Attachment 4 [“A]n airport sponsor like Snohomish County: . . . [I]s not required to construct facilities to accommodate the carrier if such facilities do not already exist.”], FAA leadership persisted in its predetermination of the scope of the project, as well as the level of environmental review that would ultimately be completed. See, e.g., Memo from Carol Suomi to Dave Waggoner, February 9, 2009, attached hereto as Attachment 5 [“There will only be funding of an EA IF the County agrees to build a terminal . . . ”].

Belatedly realizing the prohibition on predetermination of the ultimate outcome of the project and the level of environmental review required, FAA has now decided to keep further evidence of its patently arbitrary and capricious decisionmaking process from the public by failing and refusing to provide the requested documents to Mukilteo.

FAA’s persistence in its arbitrary limitation on the scope of the comments in the FEA may potentially render the entire exercise of the FEA’s publication, the solicitation of comments, and FAA’s ultimate approval of the FEA, a nullity. Moreover, given the manifest relevance of Mukilteo’s requested documents under FOIA to the outcome of the environmental process, Mukilteo deems FAA’s failure to timely respond to, and produce, the requested documents under FOIA as a waiver of the purported time limitation on comments on the FEA, and an approval of a supplement to the current comments within a reasonable time, not to exceed 30 days, of FAA’s legally mandated production of the documents requested by Mukilteo under FOIA.

---

2 Predetermination occurs “when an agency irreversibly and irretirievably commits itself to a plan of action that is dependent upon the NEPA environmental analysis producing a certain outcome, before the agency has completed that environmental analysis – which of course is supposed to involve an objective, good faith inquiry into the environmental consequences of the agency’s proposed action. . . In evaluating whether an agency has predeterimnated the result of its NEPA analysis, we are permitted to look to the NEPA analysis itself – for example the DEIS or FEIS – as well as to evidence outside of the analysis—for example, . . . intra-agency comments, e-mail correspondence, or meeting minutes regarding the proposed action.” Wyoming v. U.S. Dept. of Agriculture, 661 F.3d 1209, 1264 (10th Cir. 2011), citing Forest Guardians v. U.S. Fish & Wildlife Service, 611 F.3d 692, 716-18 (10th Cir. 2010).

3 An agency’s decision is arbitrary and capricious if, among other things, the agency “failed to base its decision on consideration of the relevant factors, see, e.g., Forest Guardians, supra, 611 F.3d at 711; see also FAA Order 1050.1E § 208a [“NEPA and the CEQ regulations, in describing the public involvement process, require Federal agencies to consider environmental information in their decision making process.”].
II. THE FEA REPRESENTS AN IMPERMISSIBLE SEGMENTATION OF NUMEROUS, INTERDEPENDENT ACTIONS THAT SHOULD BE EVALUATED IN A SINGLE, COMPREHENSIVE ENVIRONMENTAL DOCUMENT

The FEA defines the project to include essentially three components: changes to the operations specifications for two airlines, Horizon and Allegiant; changes to the operating certificate for Paine Field to allow the unlimited operation of commercial aircraft; and the construction of a new “modular terminal” not reflected on the currently approved Master Plan or Airport Layout Plan (“ALP”) for Paine Field. Nevertheless, the impacts of these components are analyzed, not only in isolation from one another, but also without regard to the reasonably foreseeable future impacts of the three components when aggregated into what, in fact, constitutes a single project.

The FEA, like the DEA before it, ignores NEPA’s mandate that “[a]gencies shall make sure the proposal which is the subject of an environmental impact statement is properly defined. Agencies shall use the criteria for scope ([40 C.F.R.] § 1508.25) to determine which proposal(s) shall be the subject of a particular statement.” 40 C.F.R. § 1502.4(a). Those criteria for determining project scope are dispositive here. CEQ Regulations § 1508.25 defines “connected actions,” as actions that are “closely related and therefore should be discussed in the same impact statement,” § 1508.25(a)(1), if, among other things, they may “[a]utomatically trigger other actions which may require environmental impact statements.” § 1508.25(a)(1)(i). FAA’s own Order 5050.4B, § 905.c(1) echoes this definition. [Connected actions are “closely related to the proposed action and should be discussed in the same EIS. These actions: (a) May automatically trigger other actions requiring EAs or EIS . . .”]

Nevertheless, FAA bases its decision to perform an attenuated environmental review on three constraining principles: (1) terminal size is not anticipated to be larger than the 29,350 square foot modular terminal added to the 1,600 square foot existing terminal; (2) only two gates will be available based on the terminal capacity to accommodate passengers; and (3) only two airlines have requested service. The FEA further asserts that it is not to be possible to currently anticipate the capacity impacts of future requests by air carriers for access. None of those purported constraints provides a cognizable basis for limiting the scope of environmental review merely to the impacts of the two gate, 29,350 square foot terminal serving only two carriers.

First, the claim of terminal constraints falls directly within the scope of both CEQ Regulations 1508.25(a)(1)(i) and FAA Order 5050.4B, § 905.c(1). The FEA concedes that “[t]he proposed ‘modular’ terminal building may have capacity to serve other airlines in addition to Horizon and Allegiant,” FEA, Appendix Q, Letter L, p. L.102, but, in the event additional demand for terminal space is identified in the future, NEPA compliance would be required. Id. at L.102-103. In other words, the heretofore unanalyzed additional capacity of the modular terminal building may “trigger” requests by other airlines for access which would automatically “require” further environmental review.

---

4 The regulations set forth in 40 C.F.R. §§ 15001, et seq., shall be referred to hereafter as “CEQ Regulations.”
The FEA further concedes that “because the proposed service requires less terminal space than that shown on the ALP and due to the volatility and unknown potential of success or failure of commercial service at Paine Field, the FAA will permit the Airport to modify the terminal concept to a ‘modular’ expansion of the existing terminal building,” FEA, Appendix Q, Letter L, p. L.102, without amending the ALP. In other words, the existing permanent terminal specification will remain on the current ALP to which the new “modular” terminal will eventually be added, allegedly “because it is consistent with the designated use shown on the current ALP.” Id. No clearer example of a “connected action,” as defined in the CEQ Regulations and FAA Order exists.5

The FEA’s third constraining principle, the absence of requests for service by air carriers other than Horizon and Allegiant is similarly baseless. The project being evaluated manifestly includes an upgrade from Paine Field’s current Category IV Operating Certificate, which does not allow scheduled operations by large aircraft over 30,000 pounds, to a Category I Operating Certificate which allows operations by all types and sizes of aircraft. The project sponsor is, no doubt, aware that, once designated a Category I airport, the airport must allow access by all aircraft so requesting, where airport facilities make it safe to do so, and terminal facilities are adequate to accommodate them. See, e.g., Airline Deregulation Act of 1978, 49 U.S.C. § 41713; Airport Noise and Capacity Act of 1990, 49 U.S.C. § 47521, et seq. Nevertheless, and despite the preemptive authority of Federal law, the FEA, like the DEA before it, fails to include in the Project Description the ultimate effects of the grant to the airport of a Part 139 Operating Certificate, effectively opening the airport to all comers, particularly where, as here, the terminal facilities will, as conceded by the project sponsor, be adequate to accommodate them.

The project sponsor attempts to excuse the absence of these necessary components of the Project Description by claiming that:

“[T]he FAA determined that the forecasts noted in the EA are reasonably foreseeable. The conditions outlined in the other forecast scenarios are speculative for the following reasons:

• Once commercial service begins, if it is successful, increases in daily and annual operations over time might be realized. However, the magnitude of those increases and the associated timing are not possible to predict.

• Some commenters speculated that additional carriers might choose to begin service at Paine Field in addition to Horizon Air and Allegiant Air. That might occur, but is dependent on a new carrier coming forward. Predictions of environmental effect would vary based on the aircraft mix that would be

5 The number of gates identified as a constraint on analysis in the FEA is a derivative of the terminal capacity, falls just as squarely within the definition of “connected action,” and does not constitute an impediment to analysis of the project as a coherent whole.
operated by the new carrier. The amount of noise and emissions vary substantially whether the aircraft is a large commercial jet (and can vary substantially among the models of commercial jets) or if the aircraft are turboprops. Thus, without knowing a specific carrier, it would be speculative to estimate environmental effects of an additional unknown carrier.”

FEA, Appendix P, p. 4.

The governing law, however, disagrees. “Section 1502.22(b)(4) requires that an agency unable to fill a gap in the relevant data ‘deal with uncertainties’ that result from the missing data by evaluating potential impacts using theoretical means.” Montana Wilderness Ass’n v. McAllister, 666 F.3d 549, 560, n. 6 (9th Cir. 2011); see also, San Luis Obispo Mothers for Peace v. Nuclear Regulatory Com’n, 449 F.3d 1016, 1033 (9th Cir. 2006). The FEA does not, however, disclose that: (1) there are methodologies available and commonly utilized by the FAA and airport operators for estimating future aircraft activity given airport capacity and market conditions; and (2) such methodologies have already been employed at Paine Field to develop market forecasts.

Airport operators and the FAA routinely forecast future airport operations. FAA aircraft activity forecasts are reflected in publications such as “FAA Aerospace Forecast Fiscal Years 2012-2032” (FAA, HQ-121545) and databases such as FAA’s Terminal Area Forecast (“TAF”) system. Airport operators employ forecasting techniques as a required component of the FAA master planning process. In fact, the FAA Advisory Circular on Airport Master Plan development (FAA, Airport Master Plans, Advisory Circular 150/5070-6B, Change1) devotes an entire chapter, Chapter 7, to forecasting requirements and procedures.

“Forecasts of future levels of aviation activity are the basis for effective decisions in airport planning. These projections are used to determine the need for new or expanded facilities. In general, forecasts should be realistic, based upon the latest available data, be supported by information in the study, and provide an adequate justification for airport planning and development. Any activity that could potentially create a facility need should be included in the forecast. . . . The planning agency should use appropriate statistical techniques to estimate activity where actual operations counts are not available.”

[Emphasis added.] FAA Advisory Circular 150/5070-6B, Change 1, § 701. Therefore, the FEA’s assertion that:

“Neither the County nor either carrier has indicated any intent to expand service beyond that proposal [i.e., the initial commercial
service requests] and neither has the County received any notice of intent from any other carrier to initiate passenger service at the Airport. Therefore, no expansion of service or facilities beyond those proposed is reasonably foreseeable.”

FEA, p. B.3, is patently at odds with the fundamental requirements of airport planning.

Moreover, the project sponsor’s actions belie its words. Forecasts of potential commercial activity at Paine Field have already been developed as part of the most recent Master Plan Update for the airport (approved by Snohomish County in December 2002 and the FAA in November 2003). As part of that update, specific forecasts for commercial air service were developed under the assumption that “some level of unconstrained [i.e., market] demand exists for passenger service at Paine Field.” Sonohomish County Airport/Paine Field Master Plan Update, p. B.7. The FEA further acknowledges that such theoretical forecasts were in fact performed.

“The Master Plan forecasts were not based on actual airline derived passenger projections, but were based on generalized ‘rule of thumb’ airport planning estimates. The Master Plan used this approach, because at the time, there was not a specific air service proposal, and thus the needs of a possible carrier could not be precisely anticipated.”

FEA, Appendix Q, Letter L, p. L.101. Clearly therefore, the FEA is deceptive in abjuring the very methodology which it concedes is appropriate, and which the project sponsor has already utilized.

Finally, the FEA, almost as an afterthought, claims that the attenuated project, as defined, possesses “independent utility.” Nothing could be further from the truth. An instructive rule for determining the appropriate scope of a project was articulated by the court in O’Reilly v. U.S. Army Corps of Engineers, 477 F.3d 225, 236-37 (5th Cir. 2007). In that case, the court applied a

“four-part test that asks whether ‘the proposed segment (1) has logical termini; (2) has substantial independent utility; (3) does not foreclose the opportunity to consider alternatives; and (4) does not irretrievably commit federal funds for closely related projects.”

Id. quoting Save Barton Creek Ass’n v. Federal Highway Admin., 950 F.2d 1129, 1140 (5th Cir. 1992). Although

“[i]mproper segmentation can occur absent the expenditure of federal funds . . . other factors look to the degree of independent function and utility of the project standing alone. The point of the inquiry is to determine whether the agency artificially divided a
‘major Federal action’ into smaller components to escape the application of NEPA to some of its segments.”

O’Reilly, supra, 477 F.3d at 238, fn. 11.

In this case, the project as defined is devoid of independent utility and, conversely, reeks with segmentation “to escape the application of NEPA” to the more impactful future project activities. The FEA admits that even the planned terminal size would allow airlines other than Horizon and Allegiant to utilize it, and, after the grant of Part 139 Operating Certificate to the airport, the law does not allow any airline to be denied that right. Given the manifest growth potential of the facilities, and legal imprimatur for expansion of airline incumbency, the segments of project analyzed in the FEA have no logical termini or rationale. And substantial Federal funds are, in fact, to be spent in this case on enlarging the already existing facilities, and inaugurating the first phase of the much larger terminal expansion reflected on the Master Plan and in the current approved ALP.

Finally, even if the Master Plan and ALP had not already reached the proposal stage and been approved, O’Reilly, supra, 477 F.3d at 237 [“improper segmentation is usually concerned with projects that have reached the proposal stage.”], “a court [may] prohibit segmentation or require a comprehensive EIS for two projects, even when one is not yet proposed, if an agency has egregiously or arbitrarily violated the underlying purpose[s] of NEPA,” Id., i.e., to “ensure[] that the agency …will have available, and will carefully consider, detailed information concerning significant environmental impacts[, and] guarantee [ ] that the relevant information will be made available to the larger [public] audience.” Center for Biological Diversity v. National Highway Traffic Safety Admin., 538 F.3d 1172, 1185 (9th Cir. 2008). Precisely that arbitrary and capricious denial of information to the public concerning the impacts of the whole project in this case fully justifies the requirement for a comprehensive EIS.

III. THE FEA, LIKE THE DEA, FAILS TO MENTION, LET ALONE ANALYZE, THE PROJECT’S REASONABLY FORESEEABLE CUMULATIVE IMPACTS

Even if the expanded terminal facility indicated on the Master Plan, its projected associated gates, and the grant of the requested Part 139 Operating Certificate for the airport included as part of the project were not integral to the Project Description, which they are, they indisputably should have been included in the calculus of cumulative impacts, which they were not. Instead, the project sponsor lists, in both the FEA and DEA, a few categories of projects, notably including an anomalous, but unexplained, category of “improvements to the passenger terminal building,” and relies on FAA’s equally anomalous definition of a “reasonably foreseeable” action as one “on or off-airport that a proponent would likely complete and that has been developed with enough specificity to provide meaningful information to a decisionmaker and the interested public.” FAA Order 5050.4B, ¶ 9q. The FAA Order goes on to more specifically define “reasonably foreseeable” for on-airport actions as, among other things, an
“action . . . included on an unconditionally approved ALP, and the proponent has:
  1) committed to complete the proposed action . . . ; and/or
  2) developed preliminary design plans . . .
Would affect all, some, or one of the environmental resources that the proposed action would affect. [And]
Would occur within the same time frames as the . . . proposed airport action.”

Not unexpectedly, that definition is wholly at odds with the CEQ Regulations on the same subject.

“A cumulative impact is defined in NEPA’s implementing regulations as ‘the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions . . . Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.’”

_Klamath-Siskiyou Wildlands Center v. Bureau of Land Management_, 387 F.3d 989, 993 (9th Cir. 2004), quoting CEQ Regulation 1508.7. The term “reasonably foreseeable” includes “impacts which have catastrophic consequences, even if their probability of occurrence is low, provided that the analysis of the impacts is supported by credible scientific evidence, is not based on pure conjecture, and is within the rule of reason.” CEQ Regulations § 1502.22(b)(1). [Emphasis added.] “[A] consideration of cumulative impacts must also consider ‘[c]losely related and proposed or reasonably foreseeable actions that are related by timing or geography.’” _O’Reilly, supra_, 477 F.3d at 234. “[A]n assessment of cumulative effects ask whether a project with individually ‘mitigated-to-insignificant’ effects may yet result in significant environmental impacts when those effects are aggregated with the foreseeable effects of other environmentally impacting human activities and natural occurrence.” _Id._ at 236.

The courts have construed this to require “an analysis of the range of environmental impacts likely to result” even from an alternative of “lower probability.” _San Luis Obispo Mothers for Peace, supra_, 449 F.3d at 1034. This requirement would clearly apply to the “national high” scenario set forth in Master Plan § B, p. B.30, Table B11. Nevertheless, the DEA and FEA merely list a handful of past, present and future on-airport projects. A much more complete list of projects, past, present and future, can be found in the Master Plan, § F, pp. F.1-F.5, Tables F1-F3. Since the projects have been included in an approved and operant Master Plan, they are clearly “reasonably foreseeable [actions] that have had or are expected to have impacts in the same area,” _see Fritiofson v. Alexander_, 772 F.2d 1225, 1245 (3d Cir. 1985), and should have been included in the FEA’s cumulative impacts analysis.

---

6 “We adopt the Fifth Circuit’s analysis of what a cumulative impacts analysis requires,” _City of Carmel-By-The-Sea v. U.S. Dept. of Transp._, 95 F.3d 892, 902 (9th Cir. 1996).
Moreover, there can be no doubt that the proposed project, when viewed in its entirety, will give rise to reasonably foreseeable future impacts. The Operating Certificate amendment enables a currently unspecified number of passenger carrier operations. The only reference for a possible estimate of such operations exists in the currently approved Master Plan, p. B.30, which indicates as many as 40,872 operations as a “national high,” a “catastrophic consequence,” which nevertheless must be evaluated even if its “probability of occurrence is low.” 40 C.F.R. § 1502.22(b)(1). Despite the patent reasonableness of the inclusion of the omitted project components and their associated manifestations, including additional operations and growing passenger count, neither the DEA nor the FEA contains any analysis of the cumulative noise or air quality impacts of these components. Instead, the FEA supplements the DEA with a page of conclusory statements about noise, limited to an invocation of the International Civil Aviation Organization’s Stage 4 standards; and air quality, limited to a paragraph of conclusions regarding the expectation that the project will not result in exceedances of the National Ambient Air Quality Standards (“NAAQS”).

This approach, however, will not withstand judicial scrutiny. In *Klamath*, supra, the Ninth Circuit rejected the lead agency’s conclusory approach to cumulative effects, holding that it “does not offer any more than the kind of ‘general statements about possible effects and some risks’ which we have held to be insufficient to constitute a ‘hard look.’” *Klamath*, supra, 387 F.3d at 995, citing *Ocean Advocates v. U.S. Army Corps of Engineers*, 361 F.3d 1108, 1128 (9th Cir. 2004). The *Klamath* court further held that “[a] proper consideration of the cumulative impacts of a project requires ‘some quantified or detailed information; … [g]eneral statements about possible effects and some risk do not constitute a hard look absent a justification regarding why more definitive information could not be provided.’” *Id.* at 994. Neither the DEA nor the FEA rise to the required level of specificity, nor do they provide any justification as to why the project sponsor did not take advantage in the preparation of the FEA of the accepted protocols of forecasting with which it was obviously familiar from its work on the Master Plan.

In short, even if the project sponsor considers an outcome “not reasonably foreseeable,” the CEQ Regulations require a more stringent treatment than that which has been afforded in this FEA, specifically, “a summary of existing credible scientific evidence which is relevant to evaluating the reasonably foreseeable significant adverse impacts on the human environment,” and “the agency’s evaluation of such impacts based upon theoretical approaches or research methods generally accepted in the scientific community.” 40 C.F.R. § 1502.22(b)(3) and (4). As none of these steps was taken in either the DEA or FEA, the FEA’s cumulative impact analysis is fatally inadequate.

IV. THE FEA’S INCREMENTAL APPROACH TO PROJECT DEVELOPMENT ENSURES THE UNDERSTATEMENT OF ENVIRONMENTAL IMPACTS

The FEA attempts to justify its incremental approach to project implementation by acknowledging the need for further environmental review for development of future aspects of the project. That commitment sounds good, but, in reality, serves the project sponsor’s apparent purpose of chronically understating the environmental impacts of the whole project.
The courts have unanimously held that “[u]se of existing conditions as the starting point for analysis is reasonable.” *American Rivers v. Federal Energy Regulatory Commission*, 201 F.3d 1186, 1198 (9th Cir. 2000). “[O]nce a project begins, the ‘pre-project environment’ becomes a thing of the past. Evaluating the project’s effect on pre-project resources is simply impossible.” *Id.* Therefore, “NEPA’s effectiveness depends entirely on involving environmental considerations in the initial decisionmaking process.” *Idaho Sporting Congress, Inc. v. Alexander*, 222 F.3d 562, 568 (9th Cir. 2000) [emphasis added]. This is because “[w]ithout establishing the baseline conditions which exist in the vicinity of [the project] before [the project] begins, there is simply no way to determine what effect the proposed [project] will have on the environment and, consequently, no way to comply with NEPA.” *Half Moon Bay Fishermans’ Marketing Ass’n, supra*, 857 F.2d at 510.

Here, the project sponsor proposes to defy the judicial mandate to involve “environmental considerations in the initial decisionmaking process,” and, instead, consider environmental impacts after “existing conditions” have been changed by the currently proposed project. The practical effect of FAA’s proposal is to create “existing conditions” upon which to predicate the purported future environmental analysis which include a larger terminal, more gates and at least two airline incumbents that don’t exist today; associated greater noise, air quality and traffic impacts; and, thus, a “starting point for analysis” which is elevated far above the currently “existing conditions” before initial project implementation. As those currently “existing conditions” without the project are the appropriate baseline for the project’s environmental analysis, the inevitable result of the serial approach to environmental review advocated by the project sponsor is the underestimation of the full scope of the project.

V. THE FEA’S AIR QUALITY ANALYSIS DOES NOT PROPERLY ACCOUNT FOR THE FULL AIR QUALITY IMPACTS OF THE PROJECT

The FEA’s air quality analysis, like its other analyses, falls victim to project segmentation. As a threshold matter, the project sponsor’s purported commitment to future environmental review of new airline entrants may be vitiated with respect to air quality analysis, because amendments to the certification of aircraft and engine types that are already certified to meet emissions standards, as set forth in applicable regulations, are, with a few exceptions, viewed by FAA as excluded from further environmental review. See FAA Order 1050.1E, § 308c. This is generally acceptable, if all such reasonably foreseeable aircraft and engine types have previously been subject to adequate environmental review. In this case, however, because the FEA does not anticipate or evaluate aircraft operations beyond those of Horizon and Allegiant, reliance on FAA Order 1050.1E would effectively exempt future aircraft entrants and their impacts from any additional air quality analysis under NEPA, even though further environmental review is claimed by the project sponsor to be the panacea for the FEA’s current analytic deficiencies.

Such an exemption would be doubly problematic because it would also potentially exempt the project from “conformity” review under the Federal Clean Air Act, 42 U.S.C. § 7506(c). That section, and its implementing regulations, establish maximum levels of emissions
for projects implemented in areas that are not “in attainment” of the National Ambient Air Quality Standards (“NAAQS”), established by the Federal Environmental Protection Agency (“EPA”). See also, 40 C.F.R. §§ 93.150-160; 40 C.F.R. §§ 51.850-860. As disclosed in the FEA, the only pollutant with which the applicable region is not in full attainment is carbon monoxide (“CO”) [FEA, p. C.5. D.441. For that pollutant, the region is in maintenance status, meaning that the maximum CO emissions, without triggering a full conformity review, is 100 tons per year.

Despite, or perhaps because of, this clear regulatory regimen, the air quality analysis, like the analysis throughout the FEA, stopped short at a “maximum capacity” of the modular terminal of two gates or 12 boardings per day, ignoring the manifest capabilities for modeling the capacity and emissions impacts of the full terminal depicted on the approved ALP, as well as the capacity to accommodate, and likelihood of accommodating, additional airlines in the modular terminal. That artificial limitation, however, cannot mask the air quality implications of even an attenuated Project Description. The maximum modular terminal capacity forecast set forth in FEA Appendix P, p. 11, reveals, using analysis under FAA’s officially sanctioned Emissions and Dispersion Modeling System (“EDMS”), that the project will emit 108.20 tons per year of carbon monoxide. This level is well over the 100 tons per year maintenance level applicable to CO, establishes the significance of the project’s CO impacts, and, thus, requires a full conformity analysis in the context of a full environmental impact statement.

VI. THE FEA’S DETERMINATION OF INSIGNIFICANT NOISE IMPACTS IS BASED ON AN IN SUPPORTABLE NOISE ANALYSIS

At its fundament, the FEA’s noise analysis is still based on skewed data; flawed analysis, including inconsistent baselines for the analysis; and, therefore, incredible results.

First, the FEA states that the annual operations for the 2013 No Action Alternative (112,733 operations), FEA, Appendix D, § 3.1.2, represent an “increase” of 30,989 operations over the 2008 base case (143,722 operations), FEA, Appendix D, § 3.1.1. Using simple arithmetic, without complex models or computers, reveals that the 2013 No Action Alternative actually represents a decrease of 30,989 operations when compared with the 2008 base case. This elementary mistake might be chalked up to typographical error if it were not repeated in the comparisons between the 2018 No Action Alternative (113,787 operations) and the 2008 base case; and again, between the 2018 Preferred Alternative (122,127 operations) and the 2008 base case. Moreover, apparently because of the erroneous arithmetic conclusions, the FEA contains no explanation of the cause of these decreases in the later years, or, more comprehensively the assumptions that guided the noise analysis in general. Without belaboring the obvious, these unexplained counter-arithmetic results and absence of any delineation of the noise analysis’ operant assumptions, casts further doubt on the integrity of the analysis in its entirety.

Second, the noise analysis is inconsistent with respect to the operant baselines for analysis. On the one hand, the FEA goes to great pains to analyze future year operations, both No Action and Preferred Alternatives, upon which the noise analysis is apparently (although not
explicitly) based, against the “2008 base case.” This comparison is borne out by FEA, Figure C6, Existing Noise Contours (2008), p. C.18, and the FEA, Appendix D, p. 1, which refers to the “2008 base case.”

Nevertheless, FEA, Appendix D, § 3.1.2, p.3, states, without explanation: “This [Future Year 2013 No Action Alternative] will be used as a baseline to compare Future Year 2018 Preferred Alternative noise contours.” This unexplained disparity between the use of the 2008 and 2013 base cases represents another methodological nail in the coffin of the FEA’s determination of the insignificance of the “project’s” noise impacts.

In short, given the noise analyses’ methodological inconsistencies, particularly the apparent use of inconsistent baselines for analysis throughout, the critical determination of the project’s noise impacts cannot be adequately evaluated by the public, and certainly cannot be definitively determined to be insignificant. The project’s noise impacts must, therefore, be fully analyzed, including all derivative noise contours, in the context of a full EIS.

VII. THE FEA FAILS TO ADEQUATELY ANALYZE THE PROJECT’S POTENTIAL SURFACE TRAFFIC IMPACTS

The traffic analysis in the FEA presupposes that the maximum impact of allowing what may potentially be unlimited commercial air service will only be 956 daily vehicle trips, assuming 1.5 to 2.4 persons per vehicle, all based on a limited number of flights by Horizon and Allegiant (which can’t, as set forth above, be limited). Using these minimal volumes, the EA analyzes 15 intersections, only seven of which purportedly realized 10 or more daily peak hour trips. In addition, several critical intersections and interchanges that lead from Route 1-5 to Paine Field, such as I-5/I-405/SR525 Swamp Creek interchange, SR525 and Lincoln Way, SR525 arterial, were not studied because the analysis purports to show that they would not receive more than 10 peak hour daily trips. The severity of impacts to, among others, I-5, SR525, the I-5/128 Street interchange and 128th Street (SR96) from I-5 to Paine Field, as well as the SR99/128th Street Signal which already operates at Level of Service F, the worst possible level of service patently requires further evaluation.

The FEA's analysis also contradicts earlier traffic analysis performed by consultants for Snohomish County. Specifically, the 2004 Mead & Hunt report, “Passenger Core Market Analysis,” found that “Snohomish County Airport/Paine Field catchment area contains approximately 28.6% (1,118,315) of the total population of the current Seattle Tacoma International Airport catchment area (3,911,660). Accordingly, the Snohomish County Airport/Paine Field catchment area could garner a comparable share of the area’s air travel market.” See, Passenger Core Market Analysis, p. 19. Moreover, “with retention of 30% of the Snohomish County Airport/Paine Field market, 1,512,463 origin and destination passengers would be generated annually.” Passenger Core Market Analysis, p. 21. Therefore, taking in to account the full capacity potential of the expanded airport, the surface traffic impacts would be vastly in excess of the 956 daily vehicle trips assumed in the FEA, thus rendering the FEA’s
traffic analysis entirely inadequate. Nevertheless, no traffic mitigation is mentioned let alone proposed for these more than likely additional impacts.

Mukilteo appreciates this opportunity to comment on the FEA’s full scope; anticipates FAA’s consideration and response to all comments whether on changed or unchanged text; and looks forward to the future opportunity to review and comment on a complete and fully compliant Environmental Impact Statement.

Sincerely,

BUCHALTER NEMER
A Professional Corporation

By

Barbara Lichman
ATTACHMENT 1
Good morning:

As you know, I have been involved with the EDC of Snohomish County for many years and currently serve on that Board of Directors. The issue of commercial aviation at Paine Field has been a contested issue that is reaching the point of some decisions being made at the County Council on whether or not to allow expanded use of the airport and accommodate Horizon and/or Allegiant Airlines.

The FAA advised Snohomish County in a letter dated June 8, 2008 to negotiate in good faith with carriers or run the risk of losing grant dollars for airport improvements. Recently, approximately $40 million in Federal stimulus dollars became at risk as well if the county did not negotiate a deal in good faith with the carriers. I understand that the county council is currently negotiating a lease with Horizon Airlines but I also understand that there are delay tactics under way by the council to push out decision making.

Today, I caught wind that the FAA has moved beyond “will or may” suspend federal discretionary dollars to they “have suspended” those dollars. So I called Carol Suomi, Manager of the Seattle district office of the FAA, who manages the grants for the northwest. She confirmed with me that the FAA had indeed suspended discretionary grants, (including the $7+ million grant for improvements to Taxiway A) and that until there is a deal struck with Horizon for a lease and an adequate terminal that those dollars and any stimulus dollars will not be issued. Since the Senate will soon be acting on a stimulus package, those dollars will go quickly to “shovel ready” projects of which there are many in hand at the airport. It is all at risk as we speak.

This has gone way beyond a right to fly issue. We are in the middle of a deep recession with the unemployment rate rising in our county. To reject or delay a decision on commercial aviation at this point would be throwing away millions of dollars in capital improvements that will generate jobs and importantly keep our county’s largest employer operating on properly maintained runways and taxiways. As our county executive said last week in his state of the county speech, “in addition to improving our regional
competitiveness and securing the future of Boeing, we must also work to capitalize on an unprecedented influx of federal funds into the economy. To be effective, this federal capital must find its way into circulation quickly." I couldn't have said it better myself. I would encourage you to contact the county council members and county executive to tell them to take action now to approve the operating agreement with Horizon and the construction of an adequate terminal at Paine Field.

Sincerely,

Michael R. Deer
President & CEO
Bank of Everett
(425) 740-2880

Bank of Everett - Exceeding Your Expectations
ATTACHMENT 2
Subject: Re: Fw: Paine Field

I was discussing the issues with Paine Field with Roman, and he explained to me that there is another tactic that we could take (and is one that the Denver ADO has found to be very effective). To me, it's even a harder line...but maybe it works better for you all.

The suggestion is to just tell them that we will hold back from giving them any additional discretionary funds until they have successfully negotiated leases with both Allegiant and Horizon Air. Simple as that - and put the burden back on the County.

What do you think about this?
Bottom line....I do not feel comfortable giving them $40M additional, unless they are moving forward with the negotiations (and nothing has even started yet). We really need to do something because we would be sending a mixed message if we gave them $40M without them doing anything on commercial service. I don't want to wait until the last minute to deal with this, especially since the County has a County Council Meeting Monday.

Joelle: Let me know what time you want to meet tomorrow, and we can discuss the options. I just want you to be thinking about our options so we can come up with a direction tomorrow. Thank you so much!

Carol Suomi, Manager
Seattle Airports District Office
Federal Aviation Administration
Phone: 425-227-2657
Fax: 425-227-1650
Carol,

I have numerous concerns with this letter and do not believe it is wise for us to send it. While I agree that we need to ensure that the airport does not deny access to either Horizon or Allegiant, I believe we need to be careful not to enter into the political fray. The following are my initial concerns with the letter:

1. Have we received correspondence directly from Horizon or Allegiant claiming that the County has not been negotiating with them or has been denying them access? If we haven't, we really don't have much to go on in alluding to the idea that the County is not negotiating in good faith or is denying them access.

2. We mention Horizon's goal to initiate service on April 1, 2009 and stress that it's important to complete negotiations and move forward. Since this is Horizon's timeframe goal and not an FAA goal, I do not believe we should have a role in pressing for or encouraging the timeframe. These are private sector negotiations that we should not take a position on.

3. We refer to "any delay or lack of negotiations could be perceived as action contrary to your grant obligations". Do we have any information from Horizon or Allegiant on how the County is delaying or not negotiating. This is a pretty general statement and not tied to denying access.

4. The second paragraph is a bit unclear as it discusses the stimulus package (which I don't think we have confirmation of yet) being discretionary funds. This is true, however, one could read the paragraph to mean that we would withhold any discretionary funds. In order to withhold discretionary funds we need to have found: (1) formal non-compliance under Part 16, (2) Land Use violations on the report to Congress, (3) that the airport clearly remains in non-compliance despite FAA requests for corrective action or (4) the violation must be so egregious as to preclude additional Federal financial assistance until the issue is resolved. I don't think we've reached these points yet at Paine Field. Especially if we haven't received any request for assistance from Horizon or Allegiant.

5. In the third paragraph, I do think it is fine to provide guidance to the airport on aspects that should be in the ground lease if they choose that route. Our bullets in this paragraph are good and could be conveyed to the County as something that they should seriously consider if they structure a ground lease.

6. Finally, our statement that a failure to negotiate in good faith may subject them to enforcement action is a bit general and strong. Instead, it is the denial of access that results from a refusal or failure to negotiate that would be the basis of a complaint. We would not take the enforcement action, unless a complaint was filed. The first sentence sounds like we would take the enforcement action.

Hope this is helpful. I just think it's best that we stay out of the negotiations at this point.

Joelle Briggs
Regional Compliance Program Manager
FAA, Northwest Mountain Region
Airports Division
425-227-2626
joelle.briggs@faa.gov
Carol Suomi/ANM/FAA
ATTACHMENT 4
MEMORANDUM

TO: Peter B. Camp, Executive Director
SNOHOMISH COUNTY

FROM: KAPLAN KIRSCH & ROCKWELL

DATE: January 7, 2009

SUBJECT: Obligations to Accommodate Commercial Service

I. Introduction and Summary

Summary

Snohomish County has received letters from two airlines indicating an interest in providing commercial passenger service to Snohomish County Airport, Paine Field. This non-confidential white paper examines Snohomish County's legal obligations for responding to those requests to accommodate commercial passenger service at Paine Field and sets out three options for satisfying the County's legal obligations. We have avoided any privileged discussion in this memorandum to assist the County Executive and County Council in their public discussions so that they can collectively provide direction to staff and counsel on a negotiation strategy.

We have concluded that the County is legally and practically obligated to negotiate a use-and-lease agreement with these two airlines. While there are both legal and practical impediments to successful negotiations, the County's legal obligations under federal law place a heavy burden on the County to attempt to accommodate these carriers. The manner in which they are accommodated and the County's role in constructing facilities are subject to more discretion. We conclude that the optimal approach to best protect the County's interests is for the County to offer to build a minimal terminal facility that satisfies the County's legal obligations and the carriers' needs, but does not provide unfettered opportunity for growth.

Airline Expressions of Interest

Allegiant Air has indicated an interest in providing service between Paine Field and Las Vegas and potentially other west coast destinations. Allegiant's proposal to negotiate with Snohomish County tentatively contemplates two to three MD-80 flights a week to Las Vegas. The Allegiant

1 Letter from Robert Ashcroft, Vice President, Planning, Allegiant Air, to David Waggoner, Airport Director (May 12, 2008).
aircraft have a capacity of about 150 passengers. Allegiant has not formally requested opening
of negotiations and has not indicated the date of proposed initiation of service.

Horizon Air Industries has proposed four to six daily flights to Spokane and Portland using
Bombardier Q400 turboprops. These aircraft have an approximate seating capacity of 74
passengers. Horizon has formally requested that the County start negotiations during the first
week of January so that Horizon can initiate service on April 1, 2009.

II. Snohomish County's Legal Obligations

To understand how the County might respond to the two letters of interest, it is first important to
review the County's legal obligations with respect to requests to allow commercial passenger
service. These obligations derive principally from regulations and policies of the Federal
Aviation Administration ("FAA") and underlying federal law.

General Obligations

Snohomish County has received federal Airport Improvement Program (AIP) grant funds for
Paine Field. As a condition of accepting AIP funds, Snohomish County has entered into the
standard statutorily-mandated grant agreement with the FAA. That agreement includes many
written assurances to the federal government, including that the County will "make the airport
available as an airport for public use on reasonable terms and without unjust discrimination to all
types, kinds and classes of aeronautical activities, including commercial aeronautical activities
offering services to the public at the airport."

Portions of Paine Field were owned by the federal government during World War II. Title to the
airport property was transferred to Snohomish County subject to certain deed restrictions

---

1 Letter from Kenneth P. Stevens, Director, Airport Affairs, Horizon Air, to David Waggoner, Airport Director
   (Dec. 11, 2008).
2 A formal request from an airline that indicates a present intent to initiate service is legally significant and triggers
   the County's legal obligations discussed in this memorandum. See Final Decision and Order, Flamingo Express,
   Inc. v. City of Cincinnati, Docket No. 16-06-04 (F.A.A. Aug. 9, 2007) aff'd. 536 F.3d 561 (6th Cir. 2008) (FAA
   final order in Part 16 proceeding regarding Lunken Airport's obligation to accommodate new passenger service).
   FAA staff informs us that Horizon's December 11 letter satisfies the standard set forth in the Lunken case.
3 Letter from Dan Russo, Vice President Marketing and Communications, Horizon Air, to Peter B. Camp,
   Snohomish County (Dec. 17, 2008).
4 The FAA has made many discretionary grants to Snohomish County over the course of the last 50 years. The
   County has received almost $60 million in federal grants for airport improvements. In addition, under the terms of a
   proposed federal economic stimulus that is now pending before Congress, the County will become eligible for
   substantial discretionary grants for immediate projects. FAA staff has informed Airport staff that the stimulus
   package grants to the County could exceed $70 million — more than the total of all grants that the County has ever
   received for Paine Field.
   http://www.faa.gov/airports_airtraffic/airports/aip/grant_assurances/media/airport_sponsor_assurances.pdf
   Grant Assurances are mandated by federal law pursuant to which Snohomish County makes certain commitments in
   exchange for receipt of federal grant funds. See 49 U.S.C. § 47107.
6 Grant Assurance 22 (Economic Non-Discrimination).
mandated by the Surplus Property Act of 1944 which, for the purposes of this memo, impose substantially similar obligations to those set forth in the Grant Assurances.8

The County is not eligible to take advantage of a very limited statutory exemption from the Grant Assurances that allows certain airports to ban scheduled passenger service.9

Like any other proprietor of a federally-obligated airport, Snohomish County is required to make Paine Field available to all aeronautical users. This principle overlays all federal law and regulation and defines the basic scope of the County's legal obligations. While there are narrow exceptions and limitations to this obligation, federal law prohibits the County from unreasonably denying access to Paine Field to any aeronautical user, including commercial passenger airlines. The County can lawfully deny access to Paine Field only if it has reasonable grounds to do so that are accepted by the FAA,10 and any such restrictions are neither unjustly discriminatory nor unduly burdensome to interstate commerce.11

With respect to the lease of vacant land for aeronautical use, FAA policy provides that the airport sponsor has the following obligation:

[T]o make available suitable areas or space on reasonable terms to those who are willing and otherwise qualified to offer flight services to the public (i.e., air carrier, air taxi, charter, flight training, crop dusting, etc.) or support services (i.e., fuel, storage, tie down, flight line maintenance, etc.) to aircraft operators. This means that unless it undertakes to provide these services itself, the airport owner has a duty to negotiate in good faith for the lease of

---

8 Surplus Property Act of 1944, Pub. L. 80-289. For a discussion of the deed restrictions applicable to airports built on property transferred from the federal government, see FAA Order 5190.6A, Airports Compliance Requirements (1989). The currently required restrictions are found at 49 U.S.C. § 47152.
9 49 USC §§ 47107(q) and (r).
10 In all cases, the FAA will make the final determination of the reasonableness of the airport sponsor's restrictions, which deny or restrict use of the airport. See FAA Order 5190.6A, § 4-8.
11 An airport sponsor may institute Minimum Standards based on safety concerns. FAA Advisory Circular 150/5190-7, Minimum Standards for Commercial Aeronautical Activities (August 28, 2006), discusses FAA policy regarding the development and enforcement of airport minimum standards. Grant Assurance 19 requires that an airport proprietor ensure the airport and all facilities necessary to serve aeronautical users are operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable federal, state, and local agencies for maintenance and operation. The airport may impose conditions on users of the airport to ensure its safe and efficient operation. Such conditions must be fair, equal, and not unjustly discriminatory. They must be relevant to the proposed activity, reasonably attainable, and uniformly applied. See FAA Order 5190.6A, § 3-12. The FAA ordinarily makes an official determination regarding the relevance and/or reasonableness of the minimum standards only when the effect of a standard denies access to a public-use airport. FAA's determination is generally limited to whether the airport sponsor's standards are reasonable, or are unjustly discriminatory, or whether the standards result in an attempt to create an exclusive right. See FAA Order 5190.6A, § 3-17(b).
such premises as may be available for the conduct of aeronautical activities.\textsuperscript{12}

The FAA, in a letter dated June 4, 2008, concisely summarized these obligations in the context of Allegiant's preliminary expression of interest in serving Paine Field:

\textit{[T]he County [must] "make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport." ...[A]n airport sponsor is obligated to make areas available for lease on reasonable terms and to negotiate in good faith for the lease of parcels to conduct aeronautical activities."}\textsuperscript{13}

In summary, the FAA has opined that, when it receives a proposal to initiate commercial service, an airport sponsor like Snohomish County:

- Must negotiate in good faith for the lease of vacant property for aeronautical use.
- Must make space available to an air carrier on reasonable terms and conditions.
- Cannot accommodate one air carrier in a manner that would effectively foreclose a second air carrier at the airport.
- Is not required to construct facilities to accommodate the carrier if such facilities do not already exist.
- Cannot impose unreasonable, arbitrary or unjustly discriminatory restrictions on operations by the air carrier.

For a more general discussion of Snohomish County's legal authority to restrict access to Paine Field by commercial passenger operators, we refer to our firm's memorandum dated October 12, 2006, entitled "Questions Presented by MRD Panel on Snohomish County’s Legal Authority Regarding Snohomish County Airport" which is included as an appendix to the \textit{Report on Mediated Role Determination for Paine Field}.\textsuperscript{14}

\textsuperscript{12} FAA Order 5190.6A, § 4-15.

\textsuperscript{13} Letter from Carol Key, Manager Seattle Airports District Office, FAA, to David Waggoner, Airport Director (June 4, 2008).

\textsuperscript{14} Camp, \textit{Report on Mediated Role Determination for Paine Field} (May 16, 2007). Our memorandum was written before the FAA and federal court decisions in the \textit{Lunken} case which clarified an airport sponsor's obligations to negotiate with a prospective air carrier. FAA, Final Decision and Order, \textit{Flamingo Express Inc. v. City of Cincinnati}, Docket No. 16-06-04 (F.A.A. Aug. 9, 2007) \textit{aff'd} 536 F.3d 561 (6th Cir. 2008) The \textit{Lunken} case is discussed in more detail later in this memorandum.
Airport Operating Certificate

An airport operator must have an Airport Operating Certificate ("AOC") issued by the FAA before it can lawfully accommodate "any scheduled passenger operation of an air carrier operating aircraft designed for more than 9 passenger seats."\(^\text{15}\) Correspondingly, an air carrier cannot conduct passenger operations at an airport that does not have the requisite certification to accommodate the operations.\(^\text{16}\) The County currently holds what is known as a Class IV Airport Operating Certificate. While no airport operator is required by federal law to seek an AOC in the first instance,\(^\text{17}\) once an airport operator secures an AOC, it has an obligation to comply with the regulations prescribed by the FAA for commercial service airports.\(^\text{18}\) Although certified airports have some flexibility in determining which class of AOC to seek, airports are limited by their "independent obligation . . . to provide reasonable, not unjustly discriminatory access to the airport."\(^\text{19}\)

Two characteristics of the Paine Field AOC are critical. First, there are four classes of AOC.\(^\text{20}\) The Class IV AOC at Paine Field permits only limited types of commercial passenger service operations and does not permit the kinds of operations contemplated by either Horizon or Allegiant.\(^\text{21}\) The Paine Field Class IV AOC would need to be changed to a Class I Certificate to accommodate either carrier's proposed service.\(^\text{22}\) A change from a Class IV to a Class I would require a change to the Paine Field Airport Certification Manual (which change requires the approval of the FAA's Regional Airports Division Manager), at least 30 days prior to implementation. It is critical to recognize, however, that, FAA staff has informed us that the existing Paine Field Airport Certification Manual already meets the requirements for a Class I airport.

Second, the FAA takes the position that an airport operator who has aeronautical facilities (runways, taxiways, aprons, etc.) sufficient to accommodate a class of commercial passenger service greater than its existing AOC would allow is obligated under certain circumstances to amend its Certification Manual and its AOC classification to accommodate such service. The

---

\(^{15}\) 49 USC 44706(a); 14 C.F.R. §§ 139.101, 139.201.
\(^{16}\) 14 C.F.R. § 121.590.
\(^{17}\) 49 U.S.C. § 44706(f). While federal law did not require the County to seek its AOC for Paine Field in the first instance, the County is obligated, pursuant to a joint use agreement with the Boeing Company, to maintain its facilities in a manner that corresponds closely to FAA requirements under FAR Part 139.
\(^{18}\) See 14 C.F.R. pt. 139.
\(^{19}\) Flamingo Express, 536 F.3d 561.
\(^{20}\) A Class I AOC authorizes an airport to serve scheduled and unscheduled air carriers regardless of size. A Class II certificate authorizes small scheduled aircraft (10-30 seats) and any size of unscheduled air carrier aircraft. A Class III certificate permits small scheduled aircraft (10-30 seats) but no large scheduled or unscheduled air carrier aircraft. Finally, a Class IV certificate allows any unscheduled air carrier aircraft operations but no scheduled aircraft larger than 9 seats. 14 C.F.R. pt. 139.
\(^{21}\) See supra notes 1-4 and accompanying text.
\(^{22}\) The AOC for Paine Field, Class IV, which permits unscheduled passenger service in 31-seat aircraft and larger but not scheduled passenger service. To accommodate large aircraft in scheduled passenger service, Paine Field would need a Class I AOC (scheduled large air carrier aircraft with 30 or more seats).
obligation ripens once an expression of interest matures to the point that a prospective carrier has expressed a definite plan to initiate service at the airport and the service reasonably can be expected to occur. As the FAA has explained, “Airports ... cannot decline to meet the requirements for a certain AOC in order to prevent an air carrier from continuing or beginning such service.”

The FAA generally treats planned service the same as existing service if the air carrier (1) is able actually to begin service, i.e. it has the use of necessary facilities and equipment, and has the necessary Department of Transportation and FAA authority to operate scheduled air transportation, and (2) has filed formal notice with the airport of its intent to begin service within a reasonable time, e.g. 2-6 months.

In response to the inquiry from Allegiant to initiate service at Paine Field, the FAA opined as follows:

A Class I AOC would be necessary to accommodate an air carrier such as Allegiant Air planning to conduct scheduled service in large aircraft. However, the categorization of an airport among the four classes of an AOC principally is an administrative determination by the FAA. In the likely event that the County has sufficient facilities or available land to accommodate Allegiant Air, and that Allegiant Air demonstrates that it is reasonably expected to operate at Paine Field, the FAA would expect Paine Field to take appropriate action to change the AOC to Class I.

(emphasis added)

In summary, with regard to the Paine Field AOC:

- A Class I AOC would be necessary to accommodate Allegiant or Horizon.
- Paine Field has a Class IV Airport Operating Certificate but its facilities would qualify for a Class I AOC.
- Horizon (but not yet Allegiant) has taken steps to demonstrate that its service is “sufficiently realistic to be considered ‘planned’ for the purpose of determining reasonable access.”

---

23 See Final Decision and Order, Flamingo Express Inc. v. City of Cincinnati, Docket No. 16-06-04 (F.A.A. Aug. 9, 2007), aff'd, 536 F.3d 561 (6th Cir. 2008).
25 Id., quoted with approval in Flamingo Express, 536 F.3d at 564.
26 Letter from Carol Key, Manager Seattle Airports District Office, Federal Aviation Administration to David Waggoner, Airport Director (June 4, 2008).
27 Flamingo Express, 536 F.3d at 568.
If Snohomish County and one or both carriers are able to reach an agreement on reasonable terms and conditions to allow service at Paine Field, the FAA will administratively change the Paine Field Operating Certificate to a Class I.

Upon the administrative change to Class I, Snohomish County would need to ensure that the Airport Certification Manual complies with the requirements for Class I airports.

Obligation to Negotiate

As explained above, the County has an affirmative obligation to negotiate in good faith to provide facilities to aeronautical users. While the FAA has not defined the parameters of what is meant by “good faith” negotiations, past experience and FAA precedent suggest that Snohomish County could not lawfully impose conditions that would implicitly be designed to make negotiations fail. For example, under federal law, the County cannot:

- Impose operating lease conditions on a prospective carrier (e.g., size of aircraft, times of operations, noise restrictions, etc.) that would otherwise violate federal law if such conditions were imposed by regulation.
- Demand lease payments which are unreasonable, as defined in the FAA’s established policies on airport rates and charges and the considerable case law under those policies.
- Require lease terms (e.g., length of term, lease rate, location of available property, insurance requirements) that are unreasonable or do not comport with industry practice.
- Extend negotiations indefinitely in a manner that becomes tantamount to denying access to Paine Field.

While federal law and FAA regulations do not require that negotiations with a prospective carrier be successful, the legal burden on the County is a heavy one: if an airport sponsor has available property (as exist at Paine Field), if the carrier is demonstrably able to pay reasonable lease rates (i.e., if it is financially responsible), and if the carrier does not itself act unreasonably in its lease negotiations, the FAA will expect that lease negotiations will be successful. As discussed in section III of this memorandum, administrative and judicial remedies are available if a prospective carrier believes that the airport proprietor has not negotiated in good faith.

---

28 Letter from Carol Key, Manager Seattle Airports District Office, Federal Aviation Administration to David Waggoner, Airport Director (June 4, 2008).
30 See City of Pompano Beach v. FAA, 774 F.2d 1529, 1538 (11th Cir. 1985).
31 See 14 C.F.R. Pt. 16 and 302.
Security

In 2001, the federal government, through the Transportation Security Administration ("TSA"), assumed responsibility for the screening of passengers and property on commercial aircraft. By regulation, the operator of an airport that accommodates a scheduled passenger or public charter passenger operation with an aircraft with 61 or more passenger seats must develop, obtain TSA approval for, and implement what is known as a "complete airport security program." Paine Field does not have a complete security program and, because there has not been commercial passenger service since 2001, the County has never prepared such a program. The County has prepared a draft program that has yet to be accepted by the TSA.

The airport operator's chief responsibilities under a complete security program are to maintain secured areas (an air operations area and a security identification display area). The airport operator must submit the proposed security program for TSA approval at least 90 days before an air carrier is expected to begin operations. Neither the draft nor the final security program is available for public inspection.

While the relevant statutes and regulations do establish a clear division between TSA (which is responsible for screening passengers and baggage) and the airport operator (which is responsible for establishing and maintaining the integrity of secured areas), there are multiple areas of overlap, particularly related to the airport operator's accommodation of TSA's needs for passenger and baggage screening. A few aspects of this overlap have been defined. In 2003, Congress authorized the award of grants to airport sponsors for airport security capital improvement projects, mostly related to redevelopment within existing facilities to address federal security mandates. Airport operators must make screening facilities available to TSA rent-free, although TSA and airport operators may enter into checkpoint agreements by which TSA will reimburse the airport operator for utilities and janitorial services. Further, TSA has developed guidelines for the design of airport security facilities, including screening areas, and encourages close coordination between airport planners and TSA in the design of new facilities.

33 49 U.S.C. § 44901(a) ("The Under Secretary of Transportation for Security shall provide for the screening of all passengers and property, including United States mail, cargo, carry-on and checked baggage, and other articles, that will be carried aboard a passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation.").

34 49 C.F.R. § 1542.103(a). Note that the TSA thresholds for various types of airport security programs are not intended and do not correspond to the FAA's Airport Operating Certificate classes.

35 49 C.F.R. §§ 1542.103, 1542.201, 1542.203 and 1542.205.

36 49 C.F.R. § 1542.105(a).

37 Under 49 C.F.R. Pt. 1542, an airport's security program is considered Sensitive Security Information and exempt from public disclosure for security reasons.

Beyond these defined areas, there is considerable uncertainty, particularly as to the relative levels of control by TSA and the airport operator, over passenger and baggage screening in an environment such as Paine Field. While TSA clearly has some statutory authority over airport operators,\(^{39}\) TSA’s principal regulatory authority over airport operators concerns the airport security program. Equally important, because of the highly sensitive nature of aviation security, TSA typically acts through Security Directives and other case-by-case decisions which are themselves protected from disclosure, rather than by issuing broadly-applicable rules. The precise obligations of each airport are generally negotiated between TSA officials and local airport and law enforcement officials and are incorporated into the airport security program or airport-specific agreements.\(^{40}\) Finally, TSA has considerable influence by virtue of the fact that it alone is responsible for passenger and baggage screening and can, for example, control the number of TSA screeners at an airport.

Federal security requirements do not themselves dictate whether the County legally is obligated to accommodate commercial passenger service. Nevertheless, because the County does have such an obligation under federal law, the County will have to satisfy significant security-related obligations before the airlines could begin service at Paine Field.

The County’s security obligations do not end with TSA approval of its security program. Because of its responsibility to provide passenger and baggage screening, TSA will have considerable influence over the design of passenger and baggage processing functions and other details of how a terminal will be designed and how airlines would operate at Paine Field. This TSA influence is important because it means that the County does not have unfettered discretion over how it designs terminal facilities to accommodate any particular carrier. In particular, as discussed further below, it is likely that TSA will require that the security program call for construction of only one central passenger checkpoint for all scheduled passenger operations given the small number of flights that Allegiant and Horizon propose for Paine Field.

III. Consequences of Violating Obligations

A detailed discussion of the legal mechanisms for enforcement of the County’s obligations under federal law is beyond the scope of this memorandum. Several points are noteworthy, however, and should enter into the County’s consideration.

First, the FAA has a long record of enforcing airports’ Grant Assurance obligations and Surplus Property Act deed restrictions in the face of perceived threats to the national air transportation system. The agency has authority to initiate enforcement action unilaterally,\(^{41}\) and is not timid about pursuing whatever administrative or judicial remedies are available to ensure that airport sponsors are properly allowing access to airports. Second, airport users and industry groups have proven equally aggressive in attacking airport sponsors whom they believe to be improperly or

\(^{39}\) See e.g., 49 U.S.C. § 114(f)(11) (the Under Secretary shall “oversee the implementation, and ensure the adequacy, of security measures at airports”).

\(^{40}\) See 49 U.S.C. § 114(m).

\(^{41}\) See 14 C.F.R. § 16.101.
unreasonably limiting access to their airport or otherwise not complying with federal obligations.\footnote{3}

Several legal challenges and remedies are available to the FAA (or other interested parties in some instances) if the agency believes that the County has violated its federal obligations:

- The FAA has the authority to initiate an administrative proceeding\footnote{43} to enforce an airport’s legal obligations under the Grant Assurances and Surplus Property Act deed restrictions. In this proceeding, the FAA exercises considerable discretion. If the FAA finds that the airport sponsor is violating its obligations, the agency can (a) withhold payment under existing grants; (b) suspend or terminate eligibility to receive further grants; and (c) seek injunctive relief in court.\footnote{44}
- Both the FAA and aggrieved parties can seek an injunction from federal district court to prevent violation of an airport’s obligations. A court can impose the same remedies as can the FAA in its administrative proceedings and can issue an injunction that requires compliance with federal legal obligations.\footnote{45}
- In civil litigation, an aggrieved party could seek not only an injunction but also damages.

Finally, greater than the threat of litigation over compliance with its obligations, is the potential loss of discretionary grants from the FAA. Snohomish County has received about $60 million in FAA funding over the past 50 years. Because of current capital needs, the County will need more than that amount in the next five to seven years. Most FAA grants are discretionary; the County risks loss of these discretionary grants if the agency does not believe that the County is appropriately accommodating passenger service. Past experience demonstrates that the FAA will not await the outcome of litigation to exercise its discretion to discontinue grants if it is unsatisfied with the County’s approach. FAA staff has explained that, if the County is unwilling

\footnote{3 Three well-known cases illustrate this point. When the City of Naples Airport Authority attempted to ban noisy jet aircraft from the Naples Municipal Airport in 1999, the FAA, airport industry groups and individual airport users filed multiple lawsuits – in state court, in federal court and in administrative forums – to stop the airport’s actions. See e.g., City of Naples Airport Auth. v. FAA, 409 F.3d 431 (D.C. Cir. 2005); National Business Aviation Ass’n v. City of Naples Airport Auth., 162 F.Supp.2d 1343 (M.D. Fla. 2001). While the Airport Authority ultimately was successful in all of the litigation, the cost (in excess of $5 million) and the effort were considerable. The Arapahoe County Public Airport Authority’s decision to ban all scheduled passenger service at the Centennial Airport in Colorado also was met with fervent opposition, which ultimately required federal legislation to overcome. See Arapahoe County Pub. Airport Auth. v. FAA, 242 F.3d 1213 (10th Cir. 2001); see also 49 U.S.C. § 47107(q) (legislative resolution to dispute). Finally, the City of Santa Monica, California recently attempted to limit the size of aircraft that can use the Santa Monica Airport on safety grounds. The FAA and industry groups have opposed that effort and the FAA has initiated enforcement action in administrative and judicial forums to stop the City’s actions. See Director’s Determination, In the Matter of Compliance with Federal Obligations by the City of Santa Monica, Docket No. 16-02-08 (F.A.A. May 27, 2008). (Our firm has represented all three airport proprietors.)}

\footnote{43 See 14 C.F.R. § 16.101.}

\footnote{44 See 49 U.S.C. §§ 47111(d), 47106(d) and 47111(f).}

\footnote{45 See Mineta v. County of Delaware, No. 05-CV-0297, 2006 WL 2711559, at *7 (N.D. Okla. Sept. 19, 2006) ("The FAA has been given legislative authority to protect federal grant funds and property interests, which provides a basis for the FAA to seek equitable relief in this case. The FAA could ask the Court for monetary damages, but federal legislation provides the FAA a variety of remedies to choose from when monitoring the use of federal funding.").}
January 7, 2009
Page 11

to make the minimal investment to build a terminal for these carriers, FAA will reconsider its historical level of funding for Paine Field. More seriously, as explained above in footnote 3, the County could jeopardize over $70 million in discretionary funding under the proposed federal economic stimulus package. The FAA is watching the actions of the County closely; the agency has a long track record of using discretionary grants to convince an airport proprietor to act in a manner consistent with the FAA’s policies.

The County’s two agreements with Boeing both require the County to solicit FAA funds for airport projects. If the FAA were to withhold discretionary grants, the County would risk losing funding for projects that directly support Boeing’s operations and provide an incentive for Boeing to remain at Paine Field.

This brief discussion is intended only to illustrate the range of legal and policy remedies available. It is important to recognize that the courts and the FAA take an airport’s Grant Assurance obligations seriously and that the consequences to the County for failure to comply with those obligations could be not only financial (e.g., loss of existing and future grants) but also injunctive, in that the FAA or a court could order the County to comply with its obligations and grant access for passenger service.

IV. Airport Facility Constraints

While the County has an affirmative obligation to accommodate commercial passenger service, there are physical constraints on the facilities at Paine Field that fundamentally affect the County’s options for accommodating the air carriers.

Aviation Facilities

Paine Field is designated as a general aviation reliever airport in the FAA’s National Plan of Integrated Airport Systems. A reliever airport is a general aviation airport that is located in a metropolitan area and is intended to reduce congestion at a large commercial service airport by providing general aviation pilots with alternative landing areas. In addition, Paine Field is a designated alternate landing site to Seattle-Tacoma International Airport for commercial service when weather conditions dictate.

46 The 1967 Boeing agreement for use of Paine Field for the 747 plus amendments and the Project Olympus agreement for the 787 Dreamliner among Boeing, the State and the County.

47 The proposed economic stimulus funding includes $48 million for rehabilitation of the main runway and parallel taxiway. We understand from Airport staff that the pavement on Taxiway Alpha and in the touchdown area on Runway 16R is at the end of its life and needs to be replaced and upgraded to meet FAA standards. Loss of funding for this project could jeopardize the County’s relationship with Boeing and the valuable production facilities at Paine Field.
Paine Field currently supports daily transport category operations for:

- Boeing, including 737, 767, 777, 747, 747 Large Cargo Freighter and An-124 Heavy Lift air cargo aircraft;
- ATS (formerly Goodrich), including Southwest 737, Alaska 737, Delta 757 and 767, UPS 757, 767 and 747, Hawaiian 767, and military C-9 aircraft; and
- US Government C-5, C-17, charter 737 and MD-80 aircraft.

Paine Field consists of approximately 1,280 acres, with three runways, an extensive system of taxiways, aircraft parking aprons, hangars, a small terminal building, and various other airport facilities. Under federal law, the County is obligated to make any of the vacant property available to a qualified aeronautical user on reasonable terms and conditions. While most of the airport property has been leased or is already dedicated to aeronautical uses, there is adequate space in the terminal area to accommodate a passenger terminal.

Paine Field has several apron areas for aircraft parking and storage. These include the Terminal Ramp, which has three components: the Outer Terminal Ramp, on the northwest; the Inner Terminal Ramp, located directly adjacent to the terminal building; and the Back Terminal Ramp, on the south.48

**Commercial Airline Facilities**

Paine Field currently has a facility that is designed as a passenger terminal. The terminal building, which contains airport management offices, along with aviation related business offices, is located adjacent to the Inner Terminal Ramp, between the parallel runways, north of Runway 11/29. Public automobile parking is located on the east side of the terminal building.49 The existing terminal is approximately 2,450 square feet. The terminal is not large enough to serve either Horizon or Allegiant. It does not contain either sufficient space or actual facilities that are commonly or legally required for commercial airline terminals, including baggage and passenger security screening facilities, sterile areas, baggage claim, or ticket counters. In large part because of TSA requirements, the building is not large enough to accommodate even the most rudimentary facilities needed today for scheduled passenger service in aircraft capable of seating more than 30 passengers.

Airport staff has investigated the needs of the airlines, had preliminary discussions with the TSA, engaged an architect to review the facility needs, and conferred with other airports with service considered comparable to the potential operations at Paine Field. To accommodate the needs of both Allegiant and Horizon, Airport staff has determined that a passenger terminal of approximately 16,000 square feet would be needed. This space would include ticket counter space, minimum necessary office space for the airlines and TSA, security processing facilities.

48 *Airport Master Plan, at A.12.*
49 *Airport Master Plan, at A.13.*
January 7, 2009  Page 13

for passengers and baggage, and sterile hold rooms for passengers after clearing through TSA's security screening.

If the site of the existing terminal were not used to accommodate commercial service, there are limited other locations where a terminal could be accommodated. While a small passenger terminal might be located on a few other sites, a viable commercial passenger operation would also need other facilities including appropriate apron parking space (with space for potential remain-overnight storage of aircraft), appropriate access by the public (from public streets and other non-secure areas), and vehicle parking facilities. Equally significant, the passenger terminal would have to be built in a location that would not interfere with the operations of other critical airport users and tenants such as Boeing. The Paine Field Master Plan has designated the Inner/Outer Terminal Ramp area as the location for a passenger terminal sized for the County-approved “regional low aircraft operations forecast.”

Airport staff has concluded that the optimal location to accommodate commercial passenger service would be either adjacent or connected to the existing minimal passenger terminal. This location would minimize disruption of other critical airport functions, would satisfy the minimum needs of air carriers (as described above) and would be consistent with long-range planning for Paine Field. This location would not, moreover, provide meaningful expansion opportunity for further scheduled passenger operations.

V. Negotiation Options

Because this memorandum is not intended to be confidential, it is not appropriate to set forth the sensitive strategy for negotiations. Without divulging any privileged information, it is clear that Snohomish County has three basic paths it can follow in negotiations with prospective carriers. We would be pleased to discuss these considerations in more detail in an appropriate confidential setting.

We discuss briefly below the legal and practical benefits and costs of each option. The assumption is that, under any scenario, the air carriers would need, at the least, (a) a passenger terminal sufficiently large to accommodate its passengers, (b) security facilities large enough to satisfy TSA passenger and baggage screening needs, (c) enough secure aircraft apron and parking for the anticipated aircraft; and (d) vehicle access and automobile parking for the public. Other facilities, such as passenger amenities, are optional. The three options vary principally in terms of who provides these facilities.

Option 1 - Ground Lease

One option would be for the County to offer a prospective airline a ground lease of property at Paine Field. Under this scenario, the airline would be responsible for constructing any facilities it needs, including a terminal, parking, and ancillary facilities. The County would lease to the airline sufficient real estate upon which to construct its desired facilities and would either have a separate agreement to allow use of aircraft apron space or would allow the airline to build its own private apron. The lease term would necessarily be long (e.g., 20+ years) so that the airline
could amortize its capital construction costs. The County’s revenue would realistically be limited to the airlines’ lease payments; the airlines would likely demand that on-site revenue (e.g., concessions, parking, rental car fees, etc.) be retained and dedicated to the airlines’ capital and operating costs of the facilities.

It is highly unusual for an airline to directly build and operate its own terminal because airline economic models generally do not call for making capital investments in terminals. Therefore, it is unlikely that either Allegiant or Horizon would be willing to make a substantial investment to construct a terminal at Paine Field. It is far more likely that, if offered a ground lease, the airlines would then enter into a contract with a third party to construct and/or operate a terminal. The County is not likely to have much control over the selection of that third party, beyond setting minimum qualifications to ensure financial responsibility.

Of the three options, the ground lease option would afford the County the least control over the future of passenger service at Paine Field, the size of facilities that are built, how the terminal is operated, and what actions the users take to encourage use of the facilities. Since the airline (or a third party contractor) would have a strong profit incentive to optimize the value of the facilities, it would be in the airline’s interest to maximize use, and potentially sublease, of the terminal.

This option would require the smallest County investment. The investment risk and reward would be carried by the airline(s).

The ground lease arrangement is the most difficult option to structure in a legally valid manner for two reasons. First, federal law prohibits the County from granting what is known as an “exclusive right.”50 The County cannot allow one airline to control all passenger service facilities at the airport. If one airline controlled the passenger terminal, it would, naturally, have a strong incentive to discourage competitors. If an airline acted in a manner that discouraged competition, however, the County could be held liable under federal law for having allowed an exclusive right. The result might be that the County would have to allow each carrier to construct its own facilities or operate at different locations on the airfield. This scenario, though not likely, illustrates the complexity in having one airline control the passenger terminal.51

The second consideration in an airline-controlled terminal is how to provide TSA security. TSA is extremely unlikely to provide more than one security screening facility at an airport the size of Paine Field. The agency is likely to demand that any lease arrangement reserve enough authority

---

51 The FAA has advised the County that the agency would carefully scrutinize any lease that allows an airline-controlled terminal. The agency believes that the potential for an anti-competitive environment is enormous under this scenario. While the agency does not flatly prohibit such arrangements, it does discourage any lease that turns over control over major facilities like a terminal to a single user. The situation at Paine Field is unusual because there are no existing passenger processing facilities and if one airline builds a terminal, it is likely to have considerable control over passenger operations, including those of a competitor.
to the County so that the County will be able both to meet its security obligations to TSA and to enable TSA to perform its security screening functions in a manner acceptable to TSA.

Since the existing terminal building is not large enough to accommodate even TSA functions, under this scenario the County would face only two options: to build a separate security facility for baggage and passenger screening, or to sublease back from the airline the space needed for security. While TSA pays for some of its facility and equipment needs, it does not pay for most security costs and would not pay for building a security facility; those costs would have to be borne by the County. Because the County's ability to generate revenue under this scenario would be limited, the County could face the burden of security costs without a clear source of funding.

Option 2 - Third Party Owned and Operated Terminal

The County could entertain proposals from a third party to build, own and operate a passenger terminal under contract to the County. There are private operators that perform this function at a few commercial service airports in the U.S. While similar in some respects to the ground lease option, this option contemplates that the County would retain some limited control over the terminal and ancillary facilities and would enter into a separate terminal use-and-lease agreement with whatever airline chooses to use the facilities. The County could have a contractual relationship with just the terminal owner/operator or could have a separate arrangement with the individual airlines.

In terms of County control, this option would be the middle of the three. The County would be able to stipulate the type and size of the facility but would be limited in its ability to impose constraints on how it is used. Since a third party would want to optimize the return on its capital investment, it would have a strong incentive to encourage growth of revenue and hence passenger operations. Unlike the ground lease scenario, in which the airline would have to balance competing considerations of limiting competition and maximizing revenue, a third party operator of a terminal would have only one incentive: to maximize use of the terminal. Unless the County wanted to guarantee revenue to the terminal operator (which would defeat the purpose of a third party terminal operator), the County would need to allow the operator the flexibility to generate as much revenue as it could.

As with the ground lease option, the County's investment would be minimal. The complexity of providing security functions would be lessened because this scenario envisions a single common-use terminal where space could be reserved for all security needs for all airlines.

Interested bidders for a terminal could be sought through a formal request-for-proposals or any other process that is lawful for making County franchises available to the private sector.
Option 3 - County-Owned and Operated Terminal

The County could build and operate a single terminal facility to accommodate projected passenger needs. In most respects this option would optimize the County’s control over future commercial passenger service and limit its financial exposure.

The County could dictate the size, character and location of the terminal but would also face the greatest investment because airport funds would be used to construct the facility. The County could design a terminal just large enough to accommodate reasonably expected passenger service from Allegiant and Horizon.

This option would maximize the County’s operational and financial control over passenger operations. The County could maintain financial control by charging the airlines lease payments as necessary to compensate the County for the airline-use portion of the capital investment in the facility and the cost of airport operations. Airport staff estimates that lease payments and related revenue could pay off any capital costs within about five years. The leases could be structured so that the County would receive compensation in the event that an airline discontinued service. Operationally, the County would be able to allocate space both among carriers and among terminal functions (e.g., ticketing, passenger screening, offices, concessions) in a manner that accommodates the carrier needs but, just as importantly, satisfies other County’s policy objectives.

Of the three options, this scenario also gives the County the most control over revenue from ancillary facilities. In order to make either of the other options viable (and therefore available for use on “reasonable terms and conditions” under FAA standards), the County likely would be required to allow the tenant (airline or third-party terminal owner) to earn revenue from the most lucrative functions of a terminal: vehicle parking, rental car concessions, and passenger services (restaurant, etc.) If the County controlled the terminal, these revenues would be used by the County to offset the County’s capital investment in the terminal, and the County could determine the pricing of these facilities to achieve its revenue objectives.

While there are undoubtedly policy considerations in the selection of the optimal alternative, we believe that a County-owned and County-controlled terminal would give the County the greatest long-term control over the future of Paine Field. The capital investment – which would come from airport funds, not County general funds – could be amortized over five years. This option also presents the fewest legal risks to the County in terms of its security obligations, its obligation to prevent the creation of an “exclusive right” in one airline, and its obligation to provide reasonable facilities to prospective airlines.

VI. Additional Questions Raised by County Council

The County Council has requested answers to several specific questions to guide its deliberations on the subject of commercial service at Paine Field. This memorandum has discussed some of the issues raised by Council and many of the questions were addressed in detail in our firm’s 2006 memorandum prepared during the MRD process. The following brief answers to specific
questions are provided to assist Council debate. We can provide far more detailed answers to these questions but many of these questions require extensive discussion of federal law that is beyond the scope of this memorandum.

**Council Question #1:** How far can we push the envelope in terms of having airlines pay?

As explained in detail earlier in this memorandum, the County can only charge reasonable rates and charges to airlines. While this standard is subject to considerable flexibility, federal law allows the County to base airline charges upon one of two general approaches: an approach that requires airlines to compensate the County for the costs incurred by the County to accommodate the airlines (known as the compensatory model), and an approach that requires airlines to pay whatever costs the County incurs for operating Paine Field that are not already paid by other users (known as the residual model).

**Council Question #2:** Can we charge for the costs of law enforcement and fire service?

Yes, the County can include the cost of law enforcement and fire services in the calculation of its lease rates. The County already charges Boeing for about 60-70 percent of the cost of aircraft rescue and fire-fighting (ARFF) functions. Some portion of the cost of ARFF services can be allocated to the airlines.

**Council Question #3:** Are we required to allow a third party to provide a terminal if we won't?

Yes. As discussed in detail earlier in this memorandum, because Paine Field has available land, the County must accommodate commercial passenger carriers. If the County does not have, or is unwilling to provide, facilities for the airlines, and the airlines are willing to build a terminal (either themselves or through a third party), the County must allow them to do so. As discussed above, the County would have little control over the location, size, and facilities that an airline built under this scenario.

**Council Question #4:** How much discretion do we have on landing fees? What costs can be included?

Like other charges, landing fees must be reasonable and must be equitably applied to all airport users. The basic principle is that the total costs imposed on all users at the airport cannot exceed the County’s actual costs of operating the airport. The County has considerable discretion over how and where to charge for use of the airport. A landing fee is just one of several possible fees that the County could impose on users. All airport costs can be included in fees that are levied to users.

**Council Question #5:** Can we require a SEPA review and dictate its elements?

Yes, the lease and construction of a terminal would be subject to SEPA and the County’s SEPA procedures. Federal environmental requirements under the National Environmental Policy Act
(NEPA) also may apply. In particular, the FAA will have to conduct environmental review for the airlines' initiation of service and for the change in the airport's AOC.

**Council Question #6: Can the County decide the “right” amount of security to be provided and charge the airlines?**

While the County has considerable discretion over how much security to require for general aviation (non-commercial) airport operations, security for commercial airlines is preempted by TSA regulation. The County can, in certain circumstances, demand more security than required by TSA, but the agency directly provides passenger and baggage screening, regulates the security functions performed by airports and airlines, and regulates virtually all aspects of commercial airline security. The County's precise security plans and requirements are set forth in a TSA-approved airport security program.

**Council Question #7: Who has to pay for noise mitigation?**

Snohomish County can use airport funds for noise mitigation. In addition, federal grant funds are often available for noise mitigation efforts, but the FAA generally limits noise mitigation funding to areas that lie within the 65 dB DNL contour. The cost of mitigation is considered to be an airport operating cost that can be shared among airport users according to the County's rates and charges. The FAA often contributes to the cost of noise mitigation but any FAA contribution is discretionary and subject to a number of complex procedural hurdles.

**Council Question #8: Can we determine the size of the pad the building would sit on?**

Maybe, within the standard of reasonableness discussed in this memorandum. If the County elects to pursue the ground lease option discussed above, the County must make available property that is large enough to accommodate the air carrier's needs (i.e., large enough for the carrier to build its desired terminal). Under this option, the County cannot tell the carrier how large a parcel it is willing to lease and therefore it has little control over how large a terminal would be built. If, however, the County pursues either of the other two options, the County can decide how large a building site is made available, where a terminal is built, and the size of the terminal.

**Council Question #9: Can the County regulate hours of operation as well as number of flights?**

Generally, no. If there are facility constraints (i.e., limited apron or passenger holdroom space), the County could implement a space allocation system for use of the constrained facility but unless there are physical constraints, the County cannot as a policy matter limit the number of operations. The County cannot generally regulate the hours of operation, either of the airport generally or the terminal specifically. The issue of airport access restrictions is complex and addressed in more detail in our firm's October 2006 memorandum.
Council Question #10: Do we have any additional power to regulate hours of operation, number of flights, noise, size of plane, type of plane, etc if we pay for and build a terminal than if we don't?

In general, the County's legal authority to impose restrictions on the use of Paine Field is the same regardless of how a terminal is constructed, funded and operated. The County does have somewhat more influence over the nature and level of future activity within a County-built and County-operated terminal. This is a very sensitive topic and therefore the ways in which the County might control future service are best discussed in a confidential setting. With that caveat, it is clear that, so long as the terminal facility is a reasonable size and facilities are reasonable to meet the needs of the two carriers who have formally expressed an interest in serving Paine Field, the County has no obligation to build facilities that accommodate future growth beyond the existing proposals. The County's actions might have the consequence of making future growth inconvenient or costly but the County has no legal obligation to anticipate growth of passenger operations unless it has received a definite proposal for such service. Since the County has only two proposals for passenger service, the County can build a terminal that is just the right size to accommodate Allegiant and Horizon in terms of number of passengers, size of aircraft, number of operations, and other facility needs.
ATTACHMENT 5
Carol Suomi/ANM/FAA  
ANM-SEA-ADO, Seattle, WA  
05/01/2009 10:25 AM  
To: dave.waggoner@co.snohomish.wa.us  
cc  
Subject: Fw: EA

Just a reminder. I understand you were asking about funding, Carol

Carol A. Suomi, Manager  
Seattle Airports District Office  
Northwest Mountain Region  
Federal Aviation Administration  
425-227-2657

----- Forwarded by Carol Suomi/ANM/FAA on 05/01/2009 10:24 AM -----

Carol Suomi/ANM/FAA  
ANM-SEA-ADO, Seattle, WA  
02/09/2009 10:43 AM  
To: "Waggoner, Dave" <Dave.Waggoner@co.snohomish.wa.us>  
cc "Dolan, Bill" <bill.dolan@co.snohomish.wa.us>, Cayla Morgan/ANM/FAA@FAA  
Subject: Re: EA

Dave: There will only be funding of an EA IF the County agrees to build a terminal and receives a grant (or amends a grant) whereas these costs would be considered formulation costs. The Ops Certificate, 139 change and terminal are all one action.

Hope this helps. Carol

Carol Suomi, Manager  
Seattle Airports District Office  
Federal Aviation Administration  
Phone: 425-227-2657  
Fax: 425-227-1650

"Waggoner, Dave" <Dave.Waggoner@co.snohomish.wa.us>

"Waggoner, Dave"  
02/09/2009 10:36 AM  
To: Cayla Morgan/ANM/FAA@FAA, "Dolan, Bill"  
cc Carol Suomi/ANM/FAA@FAA  
Subject: Re: EA

Funding?  
Dave Waggoner  
Airport Director  
Snohomish County Airport  
3220 100th St. SW  
Everett, WA 98204-1390
Hi Cayla,

I have lived in the Seattle area for almost six years now and work for the Seattle Post Office. Although I do not fly out of Seatac that much, I strongly believe the Greater Puget Sound area needs another airport beside Seattle-Tacoma International airport. According to Wikipedia.org website, the population in the Seattle city has dramatically increased from around 516,259 in 1990 to roughly 620,000 in 2011. I am very sure the Seattle-Tacoma-Everett metro area’s population is well over 2 million people at the present. I got co-workers that come from north end of town such as in North Seattle, Kenmore, Edmonds, and Everett and they commute to Tukwila where I work in the processing facility. If there is an airport at Paine Field, these co-workers I think would not have to drive through typical, heavy traffic in downtown Seattle on I-5 and then make their way to Seatac airport. Moreover, driving distance would be shorter. Think about other U.S. cities like in the San Francisco Bay Area and the New York City
area, they have three airports in their region (San Francisco, San Jose, and Oakland airports in the Bay Area and Newark, LaGuardia, and John F. Kennedy airports in New York City area). Wikipedia.org would mention those aforementioned cities under the "Transportation" section (New York City and San Francisco). What about Chicago? It has the Midway and O'Hare international airports for the Chicago area residents, as cited in Wikipedia.org. Greater Los Angeles area has LAX, Burbank, Orange County, Ontario, and Long Beach airports, according to Wikipedia.org and that is a lot of airports in their region. Going back to the Seattle area/Puget Sound Area, we need another airport to relieve airport traffic at SeaTac airport. Chicago, New York City, San Francisco and Los Angeles region may be larger than Seattle/Puget Sound area but it definitely would help to have another airport in town.

Using Paine Field to fly commercial airplanes out of Everett. Wa would I think create more jobs there. This is what Washington State residents want. Of course, people are going to say building/expanding an airport for commercial use is going to be noisy and that is part of living around the airport. There are airplanes that typically fly over my house and the noise does not bother me.

In all, please do all you can to approve and allow Paine Field to expand and use commercial airlines as increasing population in Seattle/Puget Sound area rise and lets create jobs in Everett. This will I think relieve some traffic around Seatac airport.

Regards,
Tony Lui
Ellen McDonald
329 160th pl SE
Mill Creek, Wa 98012
206.383.1053
Emm@uw.edu

... regards to the increased noise level that commercial flights might create in the area if allowed at Paine Field, I am concerned. I did not do an official study but I have been home when Boeing's Dreamliner has flown over head. While it is cool for my kids to see and hear a plane flying so low, it only happens once in a long while--not several times daily. I'm concerned that this will affect our daily living. We have purchased our home for the long haul, to raise our family here. Does your study show the environmental impact on young families? Please consider denying commercial access at Paine Field.
forwarding for meeting tomorrow

Cayla Morgan
Environmental Protection Specialist
Seattle Airports District Office
Federal Aviation Administration
425-227-2653
----- Forwarded by Cayla Morgan/ANM/FAA on 09/18/2012 03:50 PM -----
Subject: Decision to Add Commercial Flights to Paine Field in Snohomish County

As a resident in Mukilteo in Snohomish County, I am writing this letter to express my objection to adding commercial flights at Paine Field. Even though the official study states there is little effect on noise to residents or added pollution to the area, I feel that over a longer time frame of 20-30 years, there indeed would be a negative effect on Mukilteo and Snohomish County as more airlines might add flights to Paine field without restrictions.

In addition, in my opinion, there are other important reasons to not approve the airport for commercial flights. These reasons include:

1. The Seattle-Tacoma airport has just added another runway and offers a great international airport that should be the focus by the State of Washington and the Federal Aviation Administration. Do not dilute the emphasis on Seatac Airport by adding other regional airports for commercial flights.

2. Boeing has a major operation located at Paine field. Commercial flights will add a complexity to Boeing’s operations that is not reasonable for a top employer in the state. Long term this will be another critical factor for Boeing to add expansions in sites other than Everett.

3. Finally, I feel this is an example of where the federal government should consider the wishes of many local residents in Mukilteo and not one smaller regional airline.

In summary, I urge you to reject the addition of commercial flights to Paine Field.

Very Best Regards,
Charles M. McIntyre

Date

CC: Governor Christine Gregoire
Snohomish County Executive Aaron Reardon
Mayor of Mukilteo Joe Marine
October 11, 2012

Cayla Morgan  
Environmental Protection Specialist  
FAA Seattle Airports District Office  
1601 Lind Ave. SW  
Renton, WA 98057-3356

Re: Paine Field – Final Environmental Assessment

Dear Ms. Morgan:

The Port of Everett is a Washington State municipal government authorized under RCW 53 to promote economic development for the benefit of our constituents. It is the Port of Everett’s position that Paine Field is a strategic asset for aerospace and Snohomish County. The operation of Paine Field is beneficial to the economy, the community and to the operations of the Port of Everett and its constituents.

Consistent with the enclosed Port of Everett’s Resolution No. 897 adopted in 2008, the Everett Port Commission has reaffirmed its position that Paine Field’s airport is a vital link in the overall transportation system. In order to preserve aviation related jobs and investment within the Snohomish County, the Port of Everett is in support of the environmental assessment study that amends the operating specifications for air carrier operations and maintains eligibility for FAA funding of Paine Field maintenance and expansion of facility infrastructure.

Thank you for your good work. We look forward to this process.

Sincerely,

John M. Mohr  
Executive Director

JMM:scb  
Encl.
RESOLUTION NO. 897

WHEREAS, the Port of Everett is a Port District organized under RCW 53 of the laws of the State of Washington;

WHEREAS, one of the charges of the Port of Everett is to encourage economic development within the Port District;

WHEREAS, the Port of Everett develops and operates deep draft shipping facilities and recreational marina facilities;

WHEREAS, the Port of Everett supports the development of infrastructure facilities that supports Port operations, most especially the Marine Terminals;

WHEREAS, the Port of Everett supports the development of adequate highway, rail and air infrastructure to support the Port of Everett and Snohomish County;

WHEREAS, the largest customer for the Port of Everett's Marine Terminals is The Boeing Company;

WHEREAS, The Boeing Company is the largest employer in Snohomish County, and the largest exporter in the United States;

WHEREAS, The Boeing Company's existence in Snohomish County is directly dependent upon access to Paine Field, also known as the Snohomish County Airport;

WHEREAS, Snohomish County agreed to abide by certain covenants, conditions and restrictions at the time Paine Field was deeded to Snohomish County by the federal government, and has agreed to additional conditions and restrictions in accepting federal funds to maintain and operate Paine Field; and

WHEREAS, the deed and grants require economic non-discrimination by which it will make the airport available as an airport for public use on reasonable terms without unjust discrimination to all types, kinds and classes of aeronautical activities;

WHEREAS, the federal government has invested directly, and through grants, $52 million in Paine Field, and

WHEREAS, Snohomish County has identified an additional $50 million in improvements which must be made to the airport over the next several years, and

WHEREAS, failure to make those improvements may jeopardize the long-standing agreement with The Boeing Company and Snohomish County to maintain and
make necessary capital improvements to the airfield, gravely impacting Boeing and the thousands of jobs it provides; and

WHEREAS, the Seattle Airport's District Office of the Federal Aviation Administration has reminded the County in a letter dated June 4, 2008, "To comply with your grant assurances and ensure continued receipt of federal funding, you must negotiate in good faith" . . . "Failure to negotiate in good faith may subject the County to an enforcement action under FAR, Part 16."

WHEREAS, the operation of Paine Field is beneficial to the economy of the Port District, and most probably to the operations of the Port of Everett Marine Terminals;

NOW, THEREFORE, LET IT BE RESOLVED by the Port Commission of the Port of Everett:

The Commission of the Port of Everett, in order to preserve aviation related jobs and investment within the Snohomish County community and not jeopardize federal and state support and funding, requests that Snohomish County officials support contracts, commitments and agreements with the Federal Aviation Administration, the aerospace industry and the State of Washington for their air capacity and air operations at Paine Field, and negotiate in good faith with air transportation providers pursuant to the Federal Aviation Administration requirements.

ADOPTED this 9th day of September, 2008.

EVERETT PORT COMMISSION

Constance M. Niva, President

Michael F. Hoffmann, Secretary
1 October 2012

To Whom It May Concern,

I am very disappointed in the apparent decision of your agency to decide what is best for our community near Paine Field.

The first changes you will see will be traffic, parking problems, emissions, health effects, water quality, decibel levels and noise.

I am only a senior citizen however, even I knew how the Boeing Company affects Snohomish County and Seattle - the state. If the Boeing Company is denied runaway docks due to commercial schedule, perhaps another state would welcome them to their area. Certainly appears venal to seek that course.

For these and many other reasons a decision for commercial flights to the Vegas is not in our best interest. Does it matter? Yes to us – please consider it.

Very truly yours,

Mary E. Daniels
10934 W. Villa Montel
Mukilteo, WA. 98275
425-315-9879
Ms. Mary E. Ollenburg
10934 W Villa Monte Dr
Mukilteo, WA 98275

FAA
1601 Lind Ave SW
Suite 520
Renton, WA 98055-4054
Dear Ms. Morgan,

It completely baffles me why the FAA is holding up the commercial Air Service at Paine Field. We have a beautiful facility that is ready to be utilized but it sits there completely under utilized. I have made 2 trips to California this week and had to drive through Seattle coming from Sea-Tac. This project has been delayed and delayed. It is time to get this project completed and get commercial Air Service to Everett's Paine Field.

Gregg Ontego
12421 - 123 Ave N.E.
Lake Stevens, WA 98258
Port of Bellingham Commissioner Mike McAuley:

Please feel free to use this and the included attachments for Public Comment.

As promised attached is the Whatcom Tax Assessors Office records queried for the word, “Airport” which I geo-coded. It is up to your office(s) and the community to interpret. Note that this flag means a lower property valuation. My interpretation is shared below.

Sorry I could clean it up but who cares, the airport is in a mess already (opinion). J

I have also attached my comments that can be found in the Paine Field EIS.
I also left the thread between Port of Bellingham real estate department and questions demand considerations at the ort and how they relate to the master plan. Which also can be used for comment in the Paine Field EIS.
I will be presenting this material to the City and County Governments as well as sending a letter/comment in response to the Paine Field (PAE) EIS Study in regard to the Whatcom County Tax Assessors Office flagging properties outside the Port of Bellingham’s noise contour study. The Port has been told repeatedly (public comment, every year) by me (not that’s really important) and basically by HMMH in 2009 that the study was not concurrent at the time of presentation in 2009.

So the Port of Bellingham released a questionnaire / survey asking people about noise and did a tally of incidents. I appreciate the attempt, but it was flawed in my opinion since a majority of the people impacted should not have to call the FAA or the Port repeatedly. These are good people who don’t want to have to call some person every time a plane flies over. This is a common theme with the way the FAA across the country conducts these tests. Simply Google it (‘FAA’ & ‘Noise’).

The illustration in the Quick Information attachment, we can see that we don’t really need the Port’s noise study to reflect an Airport impact. In fact, I commend the Whatcom County Assessors Office who recognize what an environmental impact is. You can interpret this any way you want, we good look for ways to justify the possibility of error made by the assessor. The fact is simply that this is a record showing impact and the Port of Bellingham has ignored it for almost 10 years. This will be used in my thesis which basically shows the FAA’s Noise Studies is NOT a method to be used in regard to how we as a community measure environmental impact on people. I see it as merely a starting point since the community has the airport in it’s boundry.

So what is my interpretation?

The environmental impact is larger than the Port and FAA thinks based on the gaps of properties and non-systematic approach taken and recorded by a County Government independent from the FAA and the Port of Bellingham. This also notes change and possibly revenue losses for both the individual property owner and the County revenue for that assessor county. I can assure you after this week we might see more homes flagged with the word “Airport”.

Again, the idea that there is no impact when there is no data does not mean there is not an impact. Well here is the data along with impact.

Take care and have a great weekend.

Thesis: www.spinninGlass.org

From: Mike [mailto:mmcgolly@yahoo.com]
Sent: Friday, September 14, 2012 3:52 PM
To: Matt Paskus
Cc: Michael McAuley; Shirley McFearin; Scott Walker; Jim Jorgensen; Daniel Zenk
Subject: Re: I thought you should see this story

Hey Matt.

Since you have many, many questions to be answered I have asked our E.D. to assign a liaison to you so that you get exactly what you need. Right now so many people want to be able to help and that’s creating some confusion - especially with understanding your exact question. So someone from the Port will contact you and connect you with that liaison. The E.D. will have that set up soon.

:, as always, call anytime. :-}
Matt Paskus <matt@paskus.net> wrote:

Sorry I have two people telling me two different things. Could we clarify the demand question or can I simply be assured that we will take into consideration that a future hotel or new commercial airport to the south will have an impact on the master plan update?

Thank you

Sent from a mobile device. Please excuse any typos.

On Sep 14, 2012, at 11:04 AM, Mike <mmcgolly@yahoo.com> wrote:

Hey Matt...I am still hoping to catch up with ur neighborhood re:airport. As for hotel and master plan this is exactly the kind of real world research that will inform the master plan, this way we don't have to rely on best guesses or suppositional effort. I think it is prudent to see if there is a market demand for a hotel first then decide yes or no after we have some facts. :-)

So give me a call and let's get ur neighbors together!

Matt Paskus <matt@paskus.net> wrote:

Thanks Mike,

I guess we should sit down and see how much infill needs to be filled in as part of the master plan before and not after the fact.

These projects draw volume which is part of the master planning process. The airport is in debt and to be honest, that is the only bargaining chip the port uses to justify air carrier service at this point.

So along those same lines how many flights do we need to compete or I guess stay in business? I think this is a fair question.

Can anyone on your staff answer that? I guess the only thing real and tangible here is you can't say no in fear of being sued from either the airlines or the FAA. I mean what's it like being in that
situation?

Maybe we should infill the waterfront?

Personally I don't think the master plan really should depend on the number of votes some one gets. It just seems bad practice to say we are building a hotel before the public has a chance to comment on a master plan.

Personally you all know the Master Plan is not really that important. You have already made that clear.

Later today I will forward my letter in regard to the EIS just released for Paine Field.

Sent from a mobile device. Please excuse any typos.

On Sep 14, 2012, at 8:10 AM, Mike <mmcgolly@yahoo.com> wrote:

Good morning Matt.

As stewards of the public's properties, including the airport, and considering proposals to infill in an urban area is generally a goal to aim for, I feel that And the commission are meeting the stated desires of the electorate.

To be blunt, a conversation to explore options on a vacant parcel is entirely reasonable and it's something that I not only support but push for.

Your concerns and those of the community have been heard which is why I pushed so hard almost 2 years ago to get the airport plan updated. That process is in play and issues like hotels, noise, traffic, and the entire litany of airport items is being addressed.

One item being done ahead of the plan is port participation in upgrades to the Bakerview - I5 interchange, so you can see that although it's slow we are moving to address concerns, including yours.

Anyway, thanks again for your note and thanks for keeping in touch.

Best regards,
Matt Paskus <matt@paskus.net> wrote:

I was at the BIAAC meeting yesterday and there are a lot of questions in regard to financial responsibilities as well as dealing with environmental concerns.

Again, this undermines other area hotels and does not allow the master plan update to be established. In my opinion you are now selling out local established businesses, & promoting sprawl all before a master plan is even finished. You have all ready sold the local residents. What next?

Greed is in full bloom!

Port seeks proposals for hotel at Bellingham airport

http://m.bellinghamherald.com/bellingham/db_259277/contentdetail.htm?contentguid=UosO10ES

Sent from a mobile device. Please excuse any typos. (See attached file: PaineFieldEIS.txt)(See attached file: Quick Informationv1.doc)
Quick Information
<table>
<thead>
<tr>
<th>Year</th>
<th>Frequency</th>
<th>Cumulative %</th>
<th>Region</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003</td>
<td>47</td>
<td>8.51%</td>
<td>Cliffside, Marine Drive, Smith Road, Waldron</td>
</tr>
<tr>
<td>2004</td>
<td>48</td>
<td>17.21%</td>
<td></td>
</tr>
<tr>
<td>2005</td>
<td>48</td>
<td>25.91%</td>
<td></td>
</tr>
<tr>
<td>2006</td>
<td>47</td>
<td>34.42%</td>
<td></td>
</tr>
<tr>
<td>2007</td>
<td>48</td>
<td>43.12%</td>
<td></td>
</tr>
<tr>
<td>2008</td>
<td>48</td>
<td>51.81%</td>
<td></td>
</tr>
<tr>
<td>2009</td>
<td>65</td>
<td>63.59%</td>
<td>Old Marine Drive Added</td>
</tr>
<tr>
<td>2010</td>
<td>65</td>
<td>75.36%</td>
<td></td>
</tr>
<tr>
<td>2011</td>
<td>68</td>
<td>87.68%</td>
<td>West 55th Terrace Added</td>
</tr>
<tr>
<td>2012</td>
<td>68</td>
<td>100.00%</td>
<td></td>
</tr>
</tbody>
</table>

Missing Data:

Property ID 48647 (2003) – Old Marine Drive (guess)
Property ID 48636 (2005) – Marine Drive (guess)

**Noise Study Facts**

Port of Bellingham Noise Study from 2009 (Below) only reaches Slater. Assessors think differently when it comes to noise. The model was built with 2008 data.

Large aircraft count (Alaska and Allegiant) since the 2008 Noise Study.

**Allegiant Air**

<table>
<thead>
<tr>
<th>Year</th>
<th>Departures</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>1,220</td>
</tr>
<tr>
<td>2011</td>
<td>1,961</td>
</tr>
</tbody>
</table>

61% Increase

**Alaska Airlines**

<table>
<thead>
<tr>
<th>Year</th>
<th>Departures</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>0</td>
</tr>
<tr>
<td>2011</td>
<td>748</td>
</tr>
</tbody>
</table>

748% Increase

**Alaska and Allegiant Combined**

<table>
<thead>
<tr>
<th>Year</th>
<th>Departures</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>1,220</td>
</tr>
<tr>
<td>2011</td>
<td>2,709</td>
</tr>
</tbody>
</table>

122% Increase

HMMH verified that the contours had already expanded at the time of the 2009 presentation to the Port.
Data below from HMMH Noise Study

<table>
<thead>
<tr>
<th>DNL (dB)</th>
<th>2000 Area (acres)</th>
<th>Population</th>
<th>Housing Units</th>
<th>2020 Area (acres)</th>
<th>Population</th>
<th>Housing Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>40 dB to 64 dB</td>
<td>551</td>
<td>75</td>
<td>72</td>
<td>478</td>
<td>74</td>
<td>7</td>
</tr>
<tr>
<td>44 dB to 70 dB</td>
<td>245</td>
<td>1</td>
<td>6</td>
<td>89</td>
<td>1</td>
<td>6</td>
</tr>
<tr>
<td>70 dB to 74 dB</td>
<td>78</td>
<td>3</td>
<td>3</td>
<td>87</td>
<td>5</td>
<td>0</td>
</tr>
<tr>
<td>&gt; 74 dB</td>
<td>98</td>
<td>3</td>
<td>3</td>
<td>44</td>
<td>5</td>
<td>0</td>
</tr>
</tbody>
</table>
I am writing to comment on the Final September 2012 Environmental Assessment (EA) developed to assess the impacts of amending the Part 139 operating certificate for Paine Field for commercial operations for Horizon Air and Allegiant Air.

I am specifically commenting on the new and revised sections of the Final EA including the updated noise contours, Chapter D Environmental Consequences and Appendix F Noise Impact Analysis.

The noise contours define average day and night noise levels over a 24-hour period but to not disclose or evaluate the actual noise decibels received by the surrounding residential and 4f community for each flight proposed in the Preferred Alternative as it actually happens. The FAA’s day and noise level average method does align with the requirements of local noise ordinances. City allowed noise levels for Snohomish County, the city of Everett and the city of Mukilteo are determined by individual decibel events. The take off of an airplane can result in a 140-decibel reading.

I am requesting that before a determination is made to amend Part 139, a study is completed that looks at the actual in the moment noise decibel levels local residents will be impacted too. It is not acceptable to use the FAA’s method that only looks at average noise levels over a 24-hour period. If a plane flies over my house resulting in a decibel reading of 140 once every hour averaging this with the other minutes my house and ears are not shaking is not a defensible analysis of impact to the community.

The EA states, “This Environmental Assessment used the FAA developed Integrated Noise Model (INM), Version 7.0a to develop the 65 DNL noise
contours and evaluate noise and Land use impacts. This is consistent with the Federal Aviation Administration FAR Part 150 Land Use Guidelines. These guidelines indicate that residential development is incompatible within the 65 or greater DNL noise contours. Other noise sensitive land uses, such as schools, hospitals, churches and nursing homes are also considered to be incompatible if located within the 65 DNL contour. By 2018, the change in the 65 DNL noise contour compared to the No Action Alternative would be an increase of approximately 17.6 acres. The additional area impacted by this action includes residential dwellings within the cabinet shop on 40th Ave West, residences on 44th Avenue West and a church on 78th Street SW. The 65 NDL contour is not compatible with this existing land use.

The EA also states, “The designations contained in this table do not constitute a Federal determination that any use of land covered by the program is acceptable or unacceptable under Federal, State or local law. The responsibility for determining the acceptable and permissible land uses and the relationship between specific properties and specific noise contours rests with the local authorities. FAA determinations under Part 150 are not intended to substitute federally determined land uses for those determined to be appropriate by local authorities in response to locally determined needs and values in achieving noise compatible land uses.” The EA analysis has not considered local noise ordinance regulations and standard local city methods of analysis for noise impacts.

Traffic Analysis: The fundamental flaw in this process is that the Environmental Assessment is looking at the impacts of only a few fights while getting it through opens the door for unlimited flights of the airplane models and carriers applying, without further assessment or mitigation. The traffic analysis study needs to be redone to evaluate to study the full capacity of the door that will be opened for flights with this ruling. Appendix P raises this discussion but did not evaluate it as related to environmental consequences.

It is a shame that the FAA, Paine Field Airport and Snohomish County are willing to destroy Mukilteo and other long-standing communities to generate revenue from commercial expansion.

I hope you fully consider my comments and assess the true in the moment decibel noise impacts and environmental consequences to the citizens.

Sincerely,
Liza Patchen-Short
1408 Goat Trail Loop Road
Mukilteo, WA 98275

----- Forwarded by Cayla Morgan/ANM/FAA on 10/15/2012 03:03 PM -----
October 2, 2012

Cayla Morgan  
Environmental Protection Specialist, Seattle  
Airports District Office, FAA  
1601 Lind Avenue SW  
Renton WA 98057-3356  

Re: Commercial Air Service at Paine Field

Dear Ms. Morgan,

The NIMBY opposition strategy has been delay, delay and has been successful to the detriment of our citizens and businesses.

The FAA EA process regarding Commercial Air at Paine Field should be finalized and put to bed. The whole process has been abused and overblown too long for such a minor commercial air operation. This conclusion is supported by the following facts:

- Commercial Air Service is permitted in the US Governmental conveyance covenants.
- PAE accepts FAA funding which stipulates Commercial Air is permitted.
- The PAE Master Plan includes provisions for Commercial Air service which has FAA approval.
- Commercial Air service was provided at PAE in the late 1940's by West Coast Airlines.
- PAE is one of the finest and most modern up-to-date airports in the USA. It has a 9,050 foot runway and the latest operating structure and equipment.
- PAE is presently operating under 35% of capacity which continues to trend lower.
- PAE commercial air flights would initially generate 2% (20 flights per/day) of airport capacity and up to 3% (30 flights per/day) over 3 years or more based on past SeaTac passenger traffic analysis.
- Commercial Air services does not require expansion of the existing geographical footprint of the airport.
- Commercial air service does not involve the introduction of any type of aircraft not already using the airfield.
- Commercial air is compatible with all other uses of the airfield including Boeing operations.
- Commercial air would reduce vehicle traffic through the barricade in King County to SeaTac thereby reducing traffic congestion and air pollution.
- The 65 DNL line does not extend beyond airport property.
- Having Commercial Air readily available enhances property values.
The process has resulted in the expenditure of nearly $700,000 of government money that could have been better spent on informing the general public of the importance of Commercial Air operations and/or assisting in building a new passenger terminal.

If we are to maintain and grow our job base and economy in the future it is essential to have commercial air to move people and product.

Thank you for permitting me to comment.

Sincerely,

Henry M. Robinett

HMR:dg
Dear Miss Morgan,

We are a voice of many home owners who have purchased fine homes in the area south of 164th st SW in Lynnwood between years 2000-2010. At that time, there was no mention of allowing commercial airlines at Paine field, otherwise we would have NEVER purchased the house in this area. Factors such as convenient and easy access to main freeways and amenities and friendly and peaceful environment have been driving up the pricing of the housing in the area in those years.

Since we have purchased our home in 2003 we have observed an increased amount of the Boeing planes flying almost always too low and creating too much noise, interrupting at times our sleep, work and day to day activities. We have been bringing this to the Paine Field's attention on many occasions but other than tracking this information no action has been taken. Somehow, the way winds work, we always end up with plains over our roof. Allowing commercial airlines to operate from Paine Field will significantly increase the noise and it will make our living environment unbearable. We are also very concerned about the safety, more planes over our heads will create more chances for something going wrong, especially that many accidents occur at starts and landings. It will also cause a decrease in the value of the homes in the area, which, considering the fragile state of our housing market, should be discouraged.

How this matter will be addressed - will FAA and/or the Paine Field reimburse our losses when we are forced sell the house due to this new terriblr living conditions? It is simply outrages that bringing commercial airlines to pain Field has even considered without any consideration for the thousands of the home owners in the area who have purchased their homes before this idea has been introduced. There should be laws protecting residence from such actions........ apparently there are none?
Thank you in advance for reading our comments. We do appreciate your time and hope that our concerns will be considered when the final decisions are being made.

Sincerely,
Liz and Andrew Sawicki

Tel. 425 478-3497
October 11, 2012

Cayla Morgan
Environmental Protection Specialist
FAA Seattle Airports District Office
1601 Lind Ave. SW
Renton, WA 98057-3356

**RE: Final EA for Commercial Air Service at Paine Field**

Dear Ms. Morgan:

Thank you for the opportunity to review and comment on the new and revised sections of the Final Environmental Assessment regarding changes proposed at the Snohomish County Airport/ Paine Field.

The Snohomish County Committee for Improved Transportation (SCCIT) finds the new and revised information to Final Environmental Assessment to further demonstrate that operations at the proposed two gate terminal would have no significant environmental impacts. Consequently, SCCIT supports the limited actions proposed that would enable scheduled commercial air service at Paine Field.

SCCIT is the leading business advocate for transportation systems in Snohomish County promoting economic development and sustainable growth. Commercial air service at Paine Field is an appropriate and necessary element of a transportation system that will support the economic viability of our county.

From our review, the FEIS now properly identifies the scope of the proposed actions, discusses the practical capacity of the proposed terminal, determines likely impacts on the environment, and considers appropriate mitigation measures. The new and revised sections supplement the FEIS so that it addresses and correctly analyzes the relevant environmental impacts of the proposal.

Although all elements of the environment are important, our focus is on transportation of all modes as they impact economic development in the region. Scheduled commercial flights will provide a needed transportation option for businesses and residents alike.

Appendix P (Terminal Capacity Analysis) presents the effects to noise, air quality and surface transportation if the maximum capacity of the proposed modular terminal is reached. Although the material was presented only as general information, this discussion is particularly important in providing a context on future (2018) flight operations and corresponding transportation impacts. Even though maximum capacity will not be achieved in any foreseeable future, understanding how further flight operations might affect transportation trips to the local roadways provides a better appreciation of the actual limitations of the proposed action.
Gibson’s updated traffic analysis identified additional average daily trips for the preferred alternative (20 flights with 956 trips, 212 at peak-hours) and reports on the minimal impact on current traffic. Of particular interest to SCCIT, the analysis concluded that there would be no significant impacts from the proposal.

The Gibson modeling shows adding trips to some intersections that are operating at deficient levels; however, the proposal does not create the deficiency and mitigation measures are anticipated (SR 99 at Airport Rd., and 128th and I-5 north and south ramps). That seems a reasonable conclusion considering the substantial investments made by the Boeing Company and local, state and federal partners for transportation improvements completed for the southwest Everett/Paine Field area. Almost all of the major corridors serving current and future industrial, commercial, and residential development in the SW Everett/Paine Field area have been improved in anticipation of further development and the marginal amount of traffic generated by the proposed two gate terminal can be easily accommodated.

Public/private partnerships within Snohomish County have resulted in a number of improvements to roadways, transit, and rail facilities, yet access to scheduled commercial air for passenger and freight service has been conspicuously missing. Scheduled commercial air service will correct that situation and offer another options for travel and freight shipping that will respond to the needs of the industrial/commercial businesses and residents of the county.

Thank you again for the opportunity to comment on the additional information to the FEIS.

Sincerely,

Reid H. Shockey, AICP
President
Snohomish County Committee for Improved Transportation
October 15, 2012

Ms. Cayla Morgan  
Environmental Protection Specialist  
Seattle Airports District Office, Federal Aviation Administration  
1601 Lind Avenue S.W.  
Renton, WA 98057-3356  
(SENT VIA EMAIL TO CAYLA.MORGAN@FAA.GOV)

RE: Final Environmental Assessment, Snohomish County Airport (Paine Field / PAE)

Dear Ms. Morgan:

We are writing to comment on the final Environmental Assessment (EA) presented by the FAA for Snohomish County (Paine Field) airport. This letter responds within the thirty day time limit for comments set forth by the FAA. (The deadline falls on a Sunday and was extended by one day so it is actually a thirty one day limit.)

Our group, Save Our Communities (SOC), takes issue with the EA for reasons set forth herein. We reiterate our request that the FAA leadership reject this EA as inadequate and immediately issue an order to conduct an Environmental Impact Statement to study the proposed impacts of, and mitigation for, introducing scheduled airline service at Paine Field.

Although we acknowledge the attempt to respond to our comments on the draft EA, we do not consider the response to be adequate. We therefore reaffirm our draft EA comments and consider them applicable to this final EA and hereby incorporate them by reference. In addition, we are fully familiar with and completely endorse the comments being submitted by the City of Mukilteo and request they also be considered incorporated herein by reference. The following comments are submitted to address the final EA changes, your responses to prior comments and to reiterate key flaws with the final EA and the process.

**Flawed Public Process:** We object to the strict deadline for a thirty day comment period. The FAA had over 2.5 years (from December 2009 to September 2012) to work with the draft EA and respond to comments. The FAA then gave the public only thirty days to respond, and specifically denied our request for an extension to sixty days. Further, this “final” EA document and response to comments was written in a confusing, cumbersome fashion, using appendices and tabs to cross reference one another. As a
public document that should be accessible (easy for a wide cross section of the community to understand), this fails completely. The document should have been developed to a higher standard, with clear and complete explanations for positions put forward and the FAA should have given the public more time to respond. We object to the FAA decision to limit responses to changes only, particularly since there were so few changes to the draft EA. The requirement is to legitimately engage the public, not to shut them out by curtailing their involvement and disregarding their input, as has been demonstrated by the lack of changes and the lack of detailed responses to draft EA comments. As a governmental agency that should be concerned with good governance, the FAA has failed the public it is required to serve.

Why did the FAA Push to Publish a Final EA? We are aware that the airlines are not knocking on the door trying to get started at Paine Field now. In fact, Horizon has indicated they are not interested at this time unless they have to engage in turf protection (discussed further herein.) Even the sponsor (Paine Field Airport) apparently indicated no urgency in pushing the EA out at this time and probably did not want to publicize the waning interest in Paine Field – that would undermine their past efforts to demonstrate some level of pent up public demand for service out of Paine Field through a flawed market study ironically done by a consultant that has now merged with the consultant chosen to do this EA. Despite waning interest of the airlines and the sponsor (the airport), and internal communications apparently calling out the poor performance of the EA consultant, FAA leadership was apparently determined to push a “final” EA out. Why? Perhaps because the EA effort would have run on so long that it would exceed acceptable shelf life and expire. Then a new process would have to be initiated at some point in the future and would involve significant public pressure for a “public scoping” process, something the FAA apparently does not desire.

FAA Failed to Serve as Honest Broker: The FAA should serve as the “honest broker” committed to implementing the law and responsive to all legitimate concerns and perspectives. The FAA consistently demonstrates an inability or unwillingness to perform this role. Instead, FAA actions establish a clear and continuing bias towards starting up and subsidizing scheduled airline service while minimizing impact and mitigation assessments. A truly honest, comprehensive and legally compliant assessment of changing the airport role to essentially create a fourth commercial scheduled service runway in the region would produce dramatically different conclusions from this scaled back and minimized effort. Common sense alone would lead a reasonable person to conclude that over time significant impacts would be involved.

Based on a Freedom of Information Act request from SOC, we obtained a June 2, 2008 e-mail from Cayla Morgan, Environmental Protection Specialist, Seattle Airports District Office that said:
“I am nervous about putting too much information out in any venue until we have been able to discuss further and substantiate internally what our NEPA position is.”

This is just one of many e-mails we obtained that suggests the FAA internal process is to decide ahead of time about NEPA rather than properly scoping and assessing the proposal and dealing with “objective” results. The FAA apparently prefers to pre-define the outcome and then control the process to get there. Cayla Morgan stated in the past that she knew of no instance where the FAA ever upgraded an EA to an EIS. One has to wonder why that has never happened. Again, this approach paints a picture of FAA process flaws and harms the FAA’s credibility as an honest broker required to serve the public.

**The FAA Failed to Appropriately Expand The Scope of Study – EA Invalidated:** The final EA fails to adequately address the key issues we highlighted in our original comments. The public clearly expressed the need and rationale for an expansion of the scope of study that reflects the potential impacts involved with FAA actions as required by NEPA. The EA’s minimal scope of study coupled with overly restrictive forecasted activity assumptions essentially renders all impact analyses (noise, air emissions, surface traffic, socioeconomic, health risks, etc.) inadequate thus invalidating the entire final EA.

**Purpose and Need for the Proposed Project Reveals FAA’s Deferral to Airlines:** The FAA cited a change under Page A.1 “Purpose and Need for the Proposed Project” stating “The need for the proposed action is to meet demand for commercial service within the area, as identified by Horizon Air and Allegiant Air.” We take issue with both the proposed need and demand stated by the airline applicants and by the manner in which the FAA is working with the airlines’ stated demand.

The FAA incentivizes airlines to forecast low activity levels when involved in starting scheduled service at an airport that does not have it. Why? Because the FAA and the airlines are well aware of the need to fully comply with the National Environmental Policy Act (NEPA) when making such changes. Both the FAA and airlines understand that greater activity levels in a NEPA assessment results in more impacts, more mitigation and more costs.

The FAA allows for lowballing “reasonable foreseeable” activity levels by accepting applicants’ proposals as the maximum level to be studied under NEPA. The fact that the FAA defers to the applicants’ assessment of “demand for commercial service within the area” for the purpose of a NEPA assessment is an abdication of responsibility. We are unconvinced that either airline has conducted a meaningful demand study under true market conditions (without subsidies). We are also equally convinced that the applicants will choose not to start flying out of Paine Field unless they receive subsidies particularly given the “alternatives” they are already using to serve demand. On this point, the FAA improperly dismisses alternative airports as an option for the applicants even though
the agency is required to consider alternatives and Horizon has indicated a preference for an alternative at this time unless they have to engage in turf protection.

**Inadequate and Flawed Forecasting:** We argue that the FAA’s process creates poor forecasting. The EA’s Table B2 “Aviation Activity Forecast Summary” depends largely on numbers submitted by the airline applicants, Horizon & Allegiant. As stated in Appendix S, p. 18., “The forecasts of aviation activity (Appendix G) were based on these projections supplied by the airlines.” The document includes an estimated 112,000 enplanements in 2013 growing at an annual rate of 16.3% and more than doubling to 238,200 by 2018. Yet, these numbers do not reasonably reflect the foreseeable and potential activity levels required to be assessed by NEPA.

In the response to SOC, the FAA stated:

“Comparisons should be done for appropriate timeframes. Timeframes usually selected are the year of anticipated project implementation and 5 to 10 years after implementation. Additional timeframes may be desirable for particular projects.”

Yet the FAA requires much longer range forecasts than that for airport planning. The FAA is applying two different standards. One standard, for Master Planning Purposes, uses a 20-30 year time frame. A second standard, for environmental policy actions, uses far shorter time frames, such as the 5 year period used in this EA. How can the FAA justify the use of double standards? Both Master Planning and Environmental Assessments depend on long range planning and adequate scoping. Yet the FAA justifies the use of this double standard apparently to rationalize the limited scoping in the EA, to drive towards limited forecasting, lower activity levels, less impacts and a FONSI conclusion. We take issue with the FAA’s short time frame of only 5 years, because this essentially disregards the public demand to look at the broader picture and to fully comply with NEPA.

**Subsidies:** The FAA’s forecast numbers fail to address the dynamic of creating false demand by subsidizing an airline (Allegiant) which would then force another airline (Horizon) to engage in turf protection by demanding the same subsidy arrangement. Others may follow for similar reasons – imagine the cumulative impacts of such a spiraling effect. Speculative? Not really – Horizon’s announcement about not being interested in Paine Field at this time makes this point clear. We understand that Allegiant’s business model depends on low cost, low risk and low commitment entry at any airport at which it operates. Therefore, Allegiant depends on subsidies such as a FONSI that would relieve it of responsibility to pay mitigation costs, either directly or indirectly. Once established, other competitors such as Horizon may want to start operations not to meet market demand, but only to protect their current client base, i.e. “turf protection,” and only because an initial entrant like Allegiant has started operations. A FONSI decision would create a subsidy for Allegiant that skews the market. The greater the subsidy, the more airlines are interested. Failure to adequately
assess impacts and to identify mitigation necessary by definition involves subsidies to the airlines since they would not have to “pay” their own way. If the FAA accepts this final EA and issues a Record of Decision with a FONSI determination, it will be endorsing subsidized service, a skewed market and uncompensated impacts to communities.

**FAA’s Reasonable and Foreseeable Definition Seriously Flawed:** SOC has argued that the FAA should NOT rely on numbers submitted by the applicants, since the applicants are inherently biased towards underestimating the potential, reasonable and foreseeable future growth. Applicants are induced to submit low enplanement and operations numbers to avoid or minimize environmental mitigation costs. Once they start up, they can increase volume easily beyond those initial numbers. Further, while the FAA has stated that changes in flight activity will require additional EA’s, it will endorse only incremental analysis from the most recent “baseline” analysis. This approach practically guarantees ongoing growth by the airline applicants with ongoing Findings of No Significant Impact for each incremental change.

Indeed, recent activity from Allegiant Airlines shows that it has aggressively expanded flight activity at Bellingham airport (BLI) after starting up at BLI. BLI’s most recent master plan, dated 2004, developed a “Recommended Enplanment Forecast” of 2.15% annualized growth (page 3-43). Yet the actual growth rate at BLI is far greater than that. As stated in the Bellingham Herald on 10/10/2012, “As recently as 2004, the airport had 80,000 outbound passengers. That number exceeded 500,000 in 2011 and is expected to be even higher in 2012 with 85 departing flights per week.” That growth rate, from 80,000 to 500,000 works out to about 30% per year. Thirty percent per year suggests a doubling of passenger volume about every 3 years. By contrast, BLI’s 2004 Master Plan’s predicted 2.15% growth rate suggests a doubling of passenger volume every 33 years. This huge discrepancy between actual and forecasted enplanements is unforgivable and leads to false conclusions, like a Finding of No Significant Impact, when there should be findings of significant impact.

We should note that “Allegiant Air has proposed 208 operations of MD83 aircraft at Paine Field in 2010 growing to 1,040 ops in 2016.” (FEA, App. G p. 6.) While the volume is low at the outset, the annualized growth rate is actually very high, at 30.8%, consistent with Allegiant’s growth at BLI. This growth rate, which represents a doubling of activity every 3 years, has been completely ignored in all of the “modeling” done by the FAA. Indeed, the FAA’s modeling actually serves mostly to dilute and obfuscate these numbers. For example, the FAA lumps the applicants’ operational numbers into a category called “AC” (Air Carrier) and then combines these with all other operational activity at the airport, including General Aviation, which has over 144,000 annual operations. (Existing versus Future Years Activity Table, App. G p. 7.) Total airport operations therefore effectively swamp the operations of the Air Carriers themselves. By doing this, the FAA’s analysis improperly derives low total growth rates and effectively ignores the very issue at stake here—analysis of the impact of new Air Carriers. The FAA’s analysis is therefore flawed for its failure to properly focus on the
new entrants that will have the greatest impact. The analysis should focus ONLY on the impact by the Air Carriers, since this represents the Federal Actions at stake here.

Further, it is reasonable to compare data from Bellingham when assessing or developing a forecast of reasonable and foreseeable commercial activity at Paine Field. The FAA is working with exactly the SAME two airlines at two airports in reasonably close proximity to each other. In fact, the FAA made this case when it rejected other arguments for an expanded scope. In the EA, the FAA stated:

“Some commenters speculated that additional carriers might choose to begin service at Paine Field in addition to Horizon Air and Allegiant Air. That might occur, but is dependent on a new carrier coming forward. Predictions of environmental effect would vary based on the aircraft mix that would be operated by the new carrier... Thus, without knowing a specific carrier, it would be speculative to estimate environmental effects of an additional unknown carrier.” (FEA, Appendix P, p. 4)

The FAA therefore cannot reject this argument as “speculative” since the same two carriers are involved. Therefore it’s reasonable to use the ACTUAL growth rates of those two carriers at BLI as part of the projections at Paine Field. The BLI numbers do not by themselves provide the answer to forecasting reasonable and foreseeable activity at Paine Field but it does provide a reality check that demonstrates the lowball numbers used in the final EA.

This comparison of projected versus actual enplanements at BLI also serves to point out a more serious flaw in the FAA’s reasoning and process. In our draft EA written comments, SOC argued that the FAA’s conflicted approach fails to consider the potentially high growth rates of flight activity once passenger service begins (particularly if subsidized). The FAA’s process also fails to consider additional airlines that might come in, such as Allegiant’s entry at BLI in 2008. The FAA is therefore circumventing NEPA by dividing potential activity into “increments” that uses lower activity levels while suggesting additional incremental EAs will solve future contingencies. To this end, the FAA repeatedly refers back to its own order, FAA Order 5050.4B, throughout the EA for support of its narrow findings and to justify its process of using an incremental EA approach. FAA Order 5050.4B Paragraph 9q defines reasonably foreseeable as: “An action on or off-airport that a proponent would likely complete and that has been developed with enough specificity to provide meaningful information to a decision maker and the interested public. Use the following table to help determine if an action is reasonably foreseeable.” (Table omitted by the FAA.) (EA appendix 5, p. 6)

Certainly the actual enplanement activity at BLI is more specific, and much more accurate, than the low volume activity submitted by the applicants. It is also more specific and accurate than the forecasts provided by the FAA in the Master Plan. Further, the FAA must look at “connected actions” and “similar actions” when evaluating whether an action is “reasonably foreseeable.” Therefore we challenge the FAA both for failure to follow even the narrow construction of FAA Order 5050.4B, and
for the FAA’s Order 5050.4B’s overly narrow direction. The Order’s failure to follow the National Environmental Policy Act and corresponding Council on Environmental Quality (CEQ) regulations because this Order unilaterally fails to comply with, or address, cumulative environmental impacts. The Order is therefore fatally flawed and must be thrown out, or at least expanded to allow “reasonably foreseeable” to include “connected actions” and “similar actions.” If this Order as written fails to stand, the rest of the FAA’s argument for a Finding of No Significant Impact must also fall.

**Failure to Consider Cumulative Impacts as Required:** Section 1508.7 of the Council on Environmental Quality Regulations for Implementing NEPA defines cumulative impacts as follows:

> “Cumulative impact” is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time (emphasis added).

And, Section 1508.8 defines “Effects” to include:

> (b) Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects relate to induced changes...

The definition goes on to say that “effects and impacts as used in these regulations are synonymous”. We find the final EA completely disregards cumulative impacts as defined by CEQ regulations. Instead, it is apparent that the FAA’s approach allows incremental growth with only the possibility of future assessments on segments of incremental growth. Unfortunately, this flawed FAA approach is “reasonably foreseeable” by the public given past performance and FAA’s continuing position as reflected in the final EA and the response to comments. We strongly recommend the FAA commit to full implementation of the letter, spirit and intent of NEPA by expanding the scope, conduct and EIS and fully accounting for cumulative impacts and reasonably foreseeable activity levels.

Overall, the FAA should negate the EA in favor of an EIS with an expanded scope. We urge the FAA to reject the flawed minimal assessment that currently concludes there are no significant impacts in changing the role of Paine Field. For the reasons set forth below, we restate our position that the draft EA is fatally flawed based on its unrealistically limited scope and faulty conclusions, even with the recent changes made. To comply with the spirit and intent of applicable law, we strongly recommend that the FAA conduct an EIS with an expanded scope. Specifically, we recommend that:

...
1. The FAA should conduct an EIS with an expanded scope that considers the full potential capacity of Paine Field and the related to “reasonably foreseeable” activity levels and “potential impacts” and “cumulative impacts”. The words “reasonably foreseeable,” “potential impacts,” and “cumulative impacts” are key concepts and requirements in the NEPA process and the FAA should comply by fully including them in the NEPA process.

   a. The FAA must throw out or properly expand FAA Order 5050.4B and rewrite a new definition that conforms to NEPA and CEQ standards.

   b. The FAA should conduct an EIS with an expanded scope that analyzes reasonably foreseeable, potential and cumulative impacts of scheduled air service operations at Paine Field for at least 20 years, and preferably, 30 years. Both the draft and final EA’s only look out five years further minimizing the downstream impact analysis. This limited scope skews the entire assessment including, but not limited to, impacts from air emissions, noise, traffic, parking, water runoff, impacts to children and so on.

   c. If the FAA proceeds to change Paine Field’s Operating Certificate from a Class IV to a Class I airport, then the FAA should conduct an EIS with an expanded scope that includes and analyzes the potential and cumulative impacts of the full capacity of the airport in operation 24 hours a day, seven days a week that assesses mitigation costs properly. Why include full capacity in addition to assessing various levels of activity increasing from startup through full capacity? The concern over adequately looking at various activity levels is due in part to the FAA’s inability to properly forecast demand (as shown by the BLI example) and its reliance on conflicted input data from the airline applicants themselves (as in the case with PAE.) The FAA would have to take several “federal actions” to change Paine Field’s Operating Certificate, and NEPA requires the responsible agency to fully identify and consider potential and cumulative impacts of those actions. Failure to do so is failure to comply with NEPA. The potential activity levels associated with changing the role of Paine Field are akin to looking at the maximum activity of a new commercial airport or new runway at SeaTac. The limited scope of the draft EA hardly gets at this larger picture. Sea-Tac’s third runway analysis was not based on a few daily flights so is it reasonable to expect opening another “new” scheduled service runway/airport in the region would get no less of an analysis. If the responsible agency conducted an EIS with an expanded scope, direct and indirect costs to mitigate the impacts would likely prove to be significantly higher than those projected under the draft EA. The airlines, not the taxpayers, should bear such mitigation costs since the FAA’s rules allow direct and indirect costs to be passed onto the airlines.
2. The FAA should conduct the EIS scoping process properly and publicly, inviting all governmental and non-governmental interested parties. The public and our region deserve a fair, transparent and honest decision-making process, particularly when the decision involves an irreversible regional change to the past thirty years of zoning, planning, building, purchasing, maintaining and improving.

3. Since the draft EA failed to properly scope out the impacts of changing Paine Field’s role and operating certificate to allow scheduled service, we strongly recommend that the “No Action Alternative” be the default alternative until an EIS with an expanded scope is completed and compared to alternatives.

4. We urge the FAA to take additional steps to show that it is not collusive, conflicted, or coercive in its role as the lead NEPA agency for the four federal actions outlined in the draft Environmental Assessment. We recommend an independent agency, such as the federal Department of Transportation or the General Accounting Office, pursue an investigation immediately into the overall process and conduct of all involved officials at the FAA or Paine Field airport to determine compliance with applicable rules, policies and existing laws.

5. The FAA’s overzealous drive to promote commercial airport activity includes the failure to hire a truly independent third-party contractor and the failure to direct that contractor to pursue a fair, unbiased and comprehensive analysis that genuinely meets the intent and purpose of NEPA. We ask that a new, qualified contractor be identified based on a proper bidding process.

We are copying the Snohomish County Council and County Executive on this letter. As stated in our letter of January 15, 2010 to the County, we urge the County to rescind its request for FAA terminal construction funds that effectively subsidize Horizon and Allegiant. The County’s position of discouraging commercial service includes the County’s stated policy to “insist that an airline pay its own way and mitigate its impacts.” (MRD Report May 16, 2007.)

Finally, our February 5, 2010 comments outlined a number of substantial environmental concerns that the draft EA failed to address adequately due to the modest scope and/or flawed assessment methodology. We would expect that an EIS with an expanded scope would address these substantial environmental concerns by outlining a plan to analyze, mitigate, and assess payment for them to the airlines at Paine Field. A failure to do this represents a free subsidy to the airlines and an unacceptable social, economic, and environmental liability to the taxpayers and municipalities of Snohomish County.

Sincerely,

Save Our Communities (SOC)
President, Officers, Board
On behalf of SOC members
Cc:
Snohomish County Council
Snohomish County Executive
Senator Patty Murray
Senator Maria Cantwell
Former Congressman Jay Inslee
Congressman Rick Larsen
Governor Christine Gregoire
Senator Paul Shinn
Representative Marko Liias
Representative Mary Helen Roberts
Mayor Joe Marine (Mukilteo)
Mayor Dave Earling (Edmonds)
Mayor Don Gough (Lynnwood)
Mayor Carla Nichols (Woodway)
Mayor Jerry Smith (Mountlake Terrace)
Mayor Bob Colinas (Brier)
Secretary Paula Hammond (WA DOT)
Ms. Morgan,

Attached please find a letter from Save Our Communities (SOC) commenting on the final EA presented by the FAA for Snohomish County (Paine Field) airport. This letter responds within the thirty day time limit for comments set forth by the FAA to submit by Monday, October 15, 2012. I just received notification that my earlier attempt this afternoon to email this document was rejected by my provider, AOL, so I am resubmitting at this time.

Please know that you have received this submission.

Thank you,

On behalf of SOC Board of Directors and Members (See attached file: SOC_ltr_to_FAA_Oct_15_2012-Final.pdf.pdf)
Cayla,
I am also resending from my e-mail as my wife (Julie) had some difficulty sending this to you earlier today since she just received a rejection from a transmission this afternoon. I am duplicating the submission in case there is some problem in transmission from her aol e-mail. Please acknowledge receipt of this submission per your announced deadline of today carried over from Sunday.

Thanks,
Mike
On Behalf of SOC
forwarding the comments received today

Cayla Morgan
Environmental Protection Specialist
Seattle Airports District Office
Federal Aviation Administration
425-227-2653
----- Forwarded by Cayla Morgan/ANM/FAA on 09/25/2012 05:02 PM -----

From: Pam Barber <pambarber@aol.com>
ANM-SEA-ADO, Seattle, WA
To: Cayla Morgan/ANM/FAA@FAA,
Date: 09/24/2012 05:11 PM
Subject:Paine Field

Please approve P. Field for commercial air travel. It would be soooo helpful for S. Snohomish / N. King travelers. Reduces carbon footprint by not driving to Sea/Tac.

Sincerely,

Pam Thomas
8549 NE Juanita Dr
Kirkland, WA
98034

Pam

Sent from my iPhone
----- Forwarded by Cayla Morgan/ANM/FAA on 09/25/2012 05:02 PM -----

From: Colleen Chandler <cchanlb@aol.com>
ANM-SEA-ADO, Seattle, WA
To: Cayla Morgan/ANM/FAA@FAA,
Date: 09/25/2012 03:55 PM
Subject:Airline Traffic at Paine Field

Carla,
Greg Tisdel  
2118 38th Street  
Everett, WA 98201

Ms. Cayla Morgan  
Environmental Protection Specialist  
FAA Seattle Airport District Office  
1601 Lind Ave. SW  
Renton, WA 98057-3356

10/12/12

RE.: Paine Field, Final EA

I commend the entire FAA staff for the countless hours and thoroughness that went into making their findings in the final EA for passenger service at Paine Field. I have read the report and believe that the final analysis and responses to all issues that were raised to be thorough and fair.

The reevaluating of the impacts of passenger flights at Paine with your updated numbers and assumptions was also a great idea by your staff. The results were the same. No noticeable negative environmental impacts.

There are some positive environmental impacts that aren’t even in the final EA such as transportation and air quality impacts by the trip reductions to and From SeaTac contribution to completing our transportation system in Snohomish county. I have been working on this issues for over 10yrs or longer and continue to be asked by people all over Snohomish county when are they going to be able to use our county asset Paine Field to fly from to their destination whether work or pleasure. The positive impacts this has on Snohomish county to retain and expand our high value businesses is very important to the quality of life now and in the future.

It’s time to move on. Now that this very thoroughly evaluated EA has concluded there are no negative environmental impacts. Again the staff at the FAA should be commended for their efforts on this evaluation process.

Respectfully,

[Signature]

Greg Tisdel
Ms. Cayla Morgan  
Environmental Protection Specialist  
FAA Seattle Airports District Office  
1601 Lind Ave. SW  
Renton, WA 98057-3356  

Date: October 10, 2012  
Re.: Paine Field, Final EA

Dear Ms. Morgan,

I commend you and FAA staff for completing the abovementioned “Final” EA regarding proposed passenger air service at Paine Field (PAE). Going through the numerous and often frivolous comments must have been a mountain of work – not easily completed. I find the final analysis and responses to all issues to be thorough and fair.

Reevaluating the environmental impact of passenger flights at Paine Field with updated numbers and assumptions has been a useful exercise – returning essentially the same result: There will be no noticeable negative environmental impact.

Better yet: The positive impact of reducing surface traffic (mostly single-occupancy vehicles) between Snohomish County and SeaTac by thousands of daily roundtrips has not even been estimated or included in the “final” EA. This pertains to road capacity (Hwy 99, I-5 and I-405) as well as air pollution caused by (often stagnating) road traffic.

The “Final” EA has been in the making for a long time – too long. It has taken valuable capacity of burdened and/or underfunded government agencies – at great tax payer expense and in a struggling economy. It is time to put this behind us and come to the logical conclusion that there will be no negative impacts on the environment and surrounding communities. We can only expect positive impacts from making Snohomish County a more compelling and competitive location to start and/or retain high-value businesses – thus improving quality of life, reducing traffic to and from SeaTac and also possibly reducing commuter traffic to King County by stimulating good high paying job development in Snohomish County.

Respectfully submitted,

Hans Toorens

Worldwide Business Development, Marketing and Sales Management
I am writing to oppose allowing commercial flights being initiated at Paine field. I own a home in the area the field administration designates as "NW4." In the regular reports the field's administrators release, this is one of the major areas that many noise complaints originate from. I am a shift worker and have had my rest interrupted often and, when I do get to sleep normal hours, I still hear much disturbing activity. With Boeing's increased orders and production, I feel this is enough for the neighborhood to bear without additional flights from commercial airlines being added. I am looking forward to retiring and downsizing my life in future years and am very concerned that commercial use and the low-wage jobs and increased traffic that it would generate will de-value my home's worth. With less value owing to close proximity to a commercial airport, my comfortable retirement could be jeopardized.

Please re-consider EA's recommendations, which I believe were based in nonfactual information; similar ventures at past sites bear out that once Pandora's box is opened, havoc ensues.

Sincerely,

Cynthia S. Anderson, RN, Certified Nurse Midwife
4416 - 92nd Street SW
Mukilteo, WA 98275

----- Forwarded by Cayla Morgan/ANM/FAA on 09/24/2012 04:53 PM -----

From: Jean Marie Trapp <jeanmarie@me.com>
ANM-SEA-ADO, Seattle, WA
To: Cayla Morgan/ANM/FAA@FAA,
Date: 09/24/2012 03:50 PM
Subject:Paine Field Airport Final EA

Greetings,

I would like to express my great disappointment in the decision regarding Paine Field. Since 2009 many things have changed in our area. With our economy being in a rather precarious position, we are very sensitive to the economic impacts that we could encounter here in the greater Snohomish County area.

The decision to not allow this airport to continue on its course, and to force us to become something more, will have a negative environment impact and we all know it. This report minimizes the greater long term affects, and Boeings letter on file, is based on the least number of airline traffic and does not reflect impact at its highest capacity. The economic impact will create an environment disaster, because I will become extinct.

My way of life, the value of my land, the sound in my back yard, the impact to my health and well being, should be considered for its impacts. What has happened in other parts of the country, should be considered as part of the long term study and its effects to community health and livability. Human life, liberty and our ability to live as we have is a critical piece to any environmental impact and statement, and to be dismissed is and should be a violation of our right to be considered. I have lived with the current airline traffic from Paine Field for almost 26 years. I understand the noise and the traffic patterns, so say it will not impacted is a lie.

I am furious, with this decision, and to say that we will not lose jobs, jobs, jobs, makes this decision even more disastrous.

anmarie Trapp
broker
John I. Scott, Mukilteo
To Whom it May Concern:

As longtime residents and homeowners of Lynnwood, Washington, my husband and I are strongly opposed to any expansion and/or commercialization of Paine Field. We fear not only for our property values, but for our quality of life.

We believe the FAA impact statement to be grossly inaccurate. We already experience significant noise and disruption of everyday life when the Boeing 787 supply planes fly over; they fly DIRECTLY over our house, and are incredibly low as they approach Paine Field for landing.

We know that any expansion/commercialization of this airport will only make this noise/disruption much much worse.

Laurie Wentzel Nichols
17811 40th Pl W.
Lynnwood, Washington 98037
Dear Ms. Morgan

As a concerned resident of Mukilteo since 1990; I am writing this letter to protest the decision of the FAA on Paine Field.

I will go into some of the history of this long, arduous fight, but you already have all of this information.

When my late husband and I moved into our home in February of 1990; Paine Field was not even a consideration in buying our home.

In the following years it reared its ugly head several times; we all got together and formed a group called, S.O.C. With the help of then Mayor Brian Sullivan, an agreement was reached with Everett. There would be no commercial air craft landing at Paine Field. We all breathed a sigh of relief!

This issue has continued to be a bone of contention.

My question is this. When we have a standing official agreement with the City of Everett; how can this agreement be tossed aside as not applicable. It’s an official AGREEMENT! Those who have the deepest pockets win?

The decision of allowing commercial flights into Pain Field, and it having no negative impact on the surrounding area is untrue.

• Boeing is gearing up for the biggest production schedule ever. They have orders for more planes than can be built here with the work force they have had. Massive hiring programs are hiring workers at an all time pace. This is great for the economy; unfortunately the infrastructure is not in place to handle this
additional load of cars. This does not take into consideration all of the traffic, which will come with opening up Paine Field! Already one of the main arteries of our Mukilteo is clogged for hours on end, while shift changes take place. For Hwy. 526 (Boeing Freeway), it is an impasse. For those of us who want to go North, but do not necessarily want to drop onto the ramp for I-5 going North; or the exit going South on to I-5 we are stuck on a two lane road, behind traffic that is not moving because they are ‘waiting’ to merge on to the freeway. A trip to Costco or the business in Everett Mall area can take 15 to 20 minutes, waiting for the cars to move!

- Paine Field Boulevard is impassible, also.
- Mukilteo Speedway Hwy. 525 is also impassible going to the South. The Speedway takes most of the traffic from Paine Field Blvd., dumping onto it. This is our only other way out of town. We have heavy traffic normally on this road, including ferry traffic. This is busy, but it flows. However, when our school busses are out, it is difficult to navigate the Speedway. When the additional traffic is added from Paine Field Blvd. dropping on to the Speedway, it can take over 20 minutes for a less than five minute trip! We are trapped. All of the cars are backed up at each of the six lights, crawling through, sometimes blocking the intersections.
- These Boeing cars are wearing out our roads, for which we pay taxes and they are coming from Everett.
- Since Boeing has first rights for use of Paine Field, I don’t know the extra traffic of their newly manufactured planes can coexist with the addition of commercial flights.
- We all feel certain, as soon as one commercial carrier is there; it will open the door for more commercial carriers...And, the ones who are already there with their three flights a day, will have increased their flights.
- Not to mention the noise, safety and environmental impact of this endeavor.
- Home values will decrease more in an already down market.

I, as a citizen of Mukilteo, do here by protest your decision. We have an existing ‘treaty’, if you will, with the city of Everett which states there will be no commercial air traffic into Paine Field. An agreement is an agreement! Not to mention the fore mentioned detrimental effects on our community.

Very Truly Yours,

Barbara W. Williams
5220 - 103rd St. SW
Mukilteo, WA 98275
Phone Number: 425-348-5564

bigredbabs@msn.com
f yi

Cayla Morgan
Environmental Protection Specialist
Seattle Airports District Office
Federal Aviation Administration
425-227-2653
----- Forwarded by Cayla Morgan/ANM/FAA on 09/18/2012 03:51 PM -----

From: theresa wyne <theresawyne@yahoo.com>
ANM-SEA-ADO, Seattle, WA
To: Cayla Morgan/ANM/FAA@FAA,
Date: 09/14/2012 12:34 PM
Subject: Commercial flights at Payne Field

Hello Cayla Morgan,

I'm writing to vote no against this idea. We, the residents, do not agree nor desire to have this traffic, congestion & noise in our area. As taxpayers we've already paid for triple-pane windows on the homes around SeaTac. Let's keep the public airfield traffic at the public airfield where it belongs.

Thank you,
Theresa