



U.S. Department
of Transportation
**Federal Aviation
Administration**

Western-Pacific Region
Airports Division

San Francisco Airports District Office
831 Mitten Road, Room 210
Burlingame, CA 94010

July 28, 2009

Mr. William I. Kohbarger
Town Manager
Town of Pahrump
400 North Highway 160
Pahrump, Nevada 89060

Subject: FAA Decision to Prepare an Environmental Impact Statement for the Pahrump Valley General Aviation Airport

Dear Mr. Kohbarger:

Per our discussion on July 1, and our subsequent meeting on July 24, 2009, the Federal Aviation Administration (FAA) has determined an Environmental Impact Statement (EIS) is the fastest, most prudent approach for complying with federal National Environmental Policy Act (NEPA) requirements for the proposed Pahrump Valley General Aviation Airport. As requested, we are providing our determination in writing.

The FAA makes its determinations regarding the appropriate level of NEPA documentation for a proposed project based on the NEPA, its implementing regulations found at Title 40 Code of Regulations (CFR) Parts 1500 – 1508, and FAA Orders. FAA's Environmental Orders proscribe how the FAA is to comply with NEPA. These include FAA Order 1050.1E *Environmental Impacts: Policies and Procedures*, which provides NEPA guidance for the entire FAA; and FAA Order 5050.4B *National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions*, which applies specifically to the FAA Airports line-of-business.

The Town of Pahrump, Nevada (Town), proposes to lease approximately 650 acres of Bureau of Land Management (BLM) managed public land to build and operate a new public-use, general aviation airport in the southwest portion of the Town. Some public and agency comments received during the March/April 2009 NEPA Environmental Assessment (EA) public scoping period, asserted that the proposed airport project could produce environmental impacts that have a significant impact on the environment. Other public and agency comments asserted that aircraft noise associated with the new airport could adversely affect Death Valley National Park and the BLM wilderness areas. The commentators indicated those areas should be considered noise-sensitive natural areas, and that an EIS should be prepared for the project. The public scoping comments for this project confirmed that the potential environmental effects of aircraft noise on BLM-managed wilderness areas and Death Valley National Park would need to be evaluated at a level of detail that would typically exceed the amount used in an EA. We also received comments from the public questioning the purpose and need for the proposed airport. We anticipate a need to clarify why this airport is being proposed and how it will be built as we move forward with our environmental review.

Several of the potential environmental impacts identified during the public scoping process are also specifically identified in FAA Order 1050.1E paragraphs 501(e)(1) – (10), as environmental impacts that, if ultimately found to be significant, require an EIS be completed for the project. These include:

- Significant use of properties protected under Section 4(f) of the Department of Transportation Act of 1966, as amended; 49 United States Code, Section 303(c); and FAA Order 1050.1E, paragraph 501(e)(2).
- Significant impact on natural, ecological, or scenic resource of Federal significance– FAA Order 1050.1E, paragraph 501(e)(3).
- Significant impact on noise levels of noise sensitive areas– FAA Order 1050.1E paragraph 501(e)(6).

The BLM managed wilderness areas near the proposed airport sites, as well as Death Valley National Park would qualify as a protected resource under Section 4(f) of the Department of Transportation Act of 1966 as amended (Recodified as 49 USC 303). These properties are commonly referred to as Section 4(f) properties, which include publicly-owned parks or recreation areas. By its designation as a National Park, Death Valley would also be considered a natural, ecological, and scenic resource of Federal significance, and the BLM wilderness areas may meet this designation as well. The FAA's past experience with noise evaluations for airport projects potentially impacting national parks or wilderness areas is that the areas are generally found to be noise-sensitive, and the environmental noise impact evaluations for such areas are often highly controversial.

FAA Order 1050.1E paragraph 501(b)(4) requires the FAA consider whether the methods, analysis or results establishing the extent of environmental effects of a proposed project are likely to be highly controversial. When a project may involve significant impacts, or be highly controversial in its environmental effects, an EIS is the appropriate NEPA document.

The FAA has also considered the financial cost of preparing an EA, the extent of progress made to date on the EA, and overall process needed to complete NEPA requirements in formulating our determination. We determine an EIS is the best and most prudent approach for this project. Based on your May 5, and May 12, 2009 letters, we understand that most of the funds for EA grant 3-32-0025-03 have been reallocated to scoping activities and coordination as opposed to NEPA EA document preparation. Based on recent Pahrump EA team telephone conference calls, we anticipate the deliverables from the current grant would include the scoping materials from the EA scoping meeting including a purpose and need statement, the evaluation of EA public comments, a botanical survey, a desert tortoise survey to be completed in the September/October 2009 timeframe, and a study plan for the cultural resources field survey efforts. Based on your letters, our understanding is that beyond the aforementioned survey results, you do not expect to receive a substantial portion of an EA document as a deliverable from the current grant. As a result, the additional costs to complete an EA or an EIS at this point would be very similar.

The data already collected during the existing EA effort would be usable for the EIS, and the level of environmental analysis for which the Town would presumably seek FAA funding in a future grant application, would be essentially the same with either an EA or an EIS. The main differences between the two documents are that an EIS has more specific public notice and comment requirements; completing an EIS allows the FAA to complete NEPA requirements

even if significant, unmitigable environmental impacts are identified; and NEPA and FAA Orders require that the FAA select the EIS contractor. If the FAA found adverse environmental impact that could not be mitigated below the defined thresholds of significance, the FAA would not be able to issue a Finding of No Significant Impact under the current EA to complete the NEPA process. In that case, the FAA would have to start the public involvement process over again and prepare an EIS.

In order to begin an EIS process, the FAA and the Town must enter into a Memorandum of Understanding (MOU) that specifies the roles of the FAA, as lead federal agency directing the preparation of the EIS with the assistance of a contractor, selected by the FAA, and hired by the Town to work at the direction of the FAA. We estimate that this process should take about 30 days to complete, provided the Town can get the MOU on the Town Council agenda and approved, in a timely manner, once presented by FAA.

Furthermore, we believe a consultant selection process would take about 90 days to complete as required by FAA Order 1050.1E, Appendix B, and FAA Advisory Circular 150-5100-14D, *Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects*, Section 2-10. However, the Town and the FAA can continue interagency coordination during the contractor selection process.

The FAA also requested that the BLM, a federal NEPA cooperating agency for this project, review the public scoping comments and advise us of their opinion as to whether to continue with a NEPA EA or start a NEPA EIS for the project. By letter of June 24, 2009, which we have previously provided to you, the BLM stated that they consider an EIS necessary prior to issuing a land lease to the Town for the proposed airport.

The FAA cannot issue federal assistance grants for airport design or construction unless the project sponsor holds good title to the airport property through ownership or a long-term lease (FAA Order 5100.38C *Airport Improvement Program Handbook*, and federal law [49 United States Code, Section 47106 (b)(1)]). To continue with an EA, when the BLM has stated that they consider an EIS necessary for this project, would risk a delay of several years and substantial increases in project costs.

We understand that you must receive authorization from the Pahrump Town Board to submit an application for FAA Airport Improvement Program grant funding for an EIS. In order to be eligible for consideration for a federal fiscal year 2009 FAA grant, we must receive the Town's application by close of business August 20, 2009. An application received after that date would be considered for funding in federal fiscal year 2010. Timing and availability of federal funds in future years is subject to Congressional action, but typically grant funding is not available until March.

We clearly understand that economic conditions have changed substantially since the original EA grant was issued in August 2007, and the Town completed its Master Plan and Financial Plan for the airport in July 2008. In order to ensure that the Town can continue to progress towards an operating airport as quickly as possible, the FAA would like the Town to advise us in writing of its financial plans for the local 5 percent matching funds for FAA grants,. FAA would like the Town to explain its anticipated financial plan for building a new airport as well as your anticipated construction phasing plan within 60 days.

If you have any questions regarding the environmental process, please call me at 650-876-2778 ext. 600; or Environmental Protection Specialist, Mr. Doug Pomeroy at 650-876-2778 ext. 612. The Program Manager for the Town of Pahrump is Abel Tapia. Mr. Tapia can be reached at 650-876-2778, ext. 621.

Sincerely,

original signed by

Robin K. Hunt
Manager

cc: The Honorable Harry Reid, Senator, State of Nevada, Las Vegas Office
The Honorable John Ensign, Senator, State of Nevada, Las Vegas Office
Nevada Department of Transportation, Aviation Planning (Attn: Bill Thompson)
Bureau of Land Management, Pahrump Field Office (Attn: Patrick Putnam)