

SAVE OUR COMMUNITIES

P.O. Box 482 Mukilteo, WA 98275

www.socnw.org

February 5, 2010

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:

In response to the request for comments on the draft Environmental Assessment (EA) for Snohomish County (Paine Field) airport, please find our comments and requests enclosed. We ask for a detailed response to questions posed and to our requests for additional action.

Executive Summary

Our comments focus on three major issues based not only on the EA, but also on the process used to begin the EA.

First, the FAA engaged in coercion of Snohomish County to sway a vote by the County Council in favor of terminal construction. The FAA pre-empted its own rules and, by forcing that vote, created the basis to start the EA. Details that demonstrate such coercion are provided herein. Although internal FAA communications demonstrate restraint and a commitment to a more fair process by most, there are others in the FAA seemingly committed to getting airlines into Paine Field no matter what the cost to the public.

Given the documentation we have, we will be recommending an independent agency, such as the GAO and/or Washington State's Auditor, initiate an investigation immediately into the overall process and conduct of all involved officials at the FAA, Paine Field airport or third-party contractor to determine compliance with applicable rules, policies and existing laws. Upon completion, the investigating agency needs to refer findings to the Department of Justice or other appropriate law enforcement agency.

The FAA's overzealous drive 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.

In view of these findings, the EA should be negated in favor of a properly scoped Environmental Impact Statement (EIS). The County Council's vote was coerced, so the entire process leading up to such coercion should be reviewed with the Council having the opportunity to reconsider its vote.

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 within FAA's legal requirements includes the County's stated policy to "insist that an airline pay its own way and mitigate its impacts." (MRD Report May 16, 2007.)

In support of the County's freedom to act without coercion, we specifically request that the FAA demonstrate clearly to the County that discretionary funds are, in fact, not jeopardized by any action that the County takes, or does not take, with respect to funding a terminal, and that the County fully complies with FAA rules whether or not the County chooses to subsidize terminal construction. The FAA must take whatever other steps necessary to reverse the poisonous atmosphere it created by its coercive actions.

Secondly, we believe the EA is fatally flawed based on its scope. Full details are provided herein. We ask that if actions proceed to change Paine Field from a Class IV to a Class I airport that an EIS is conducted with a scope based on full capacity of the airport and full impacts and mitigation accounted for. The FAA rules on economic non-discrimination do not allow for local restrictions other than those that are safety related. That means no restrictions on the number and frequency of flights or the time of day they occur. The potential activity levels associated with changing the role of the airport 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 based on airline intentions hardly gets at this larger picture. Sea-Tac's 3rd runway analysis was not based on a few daily flights so it is reasonable to expect opening another "new" scheduled service runway/airport in the region would get no less of an analysis. Additional specific requests for the EIS are included in the "Conclusions" section of our comments.

Finally, we provide comments outlining 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 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 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
Congressman Jay Inslee
Congressman Rick Larsen
Governor Christine Gregoire
Senator Paul Shinn

Representative Marko Lias
Representative Mary Helen Roberts
Mayor Joe Marine (Mukilteo)
Mayor Gary Haakenson (Edmonds)
Mayor Don Gough (Lynnwood)
Mayor Carla Nichols (Woodway)
Mayor Jerry Smith (Mountlake Terrace)
Mayor Bob Colinas (Brier)
Secretary Paula Hammond (DOT)

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Process Flaws and Violations of Law/Policy/Precedence

These comments point out flaws and violations of law, rules, orders and policies involved throughout this entire EA process. We have acquired documents and communications through the Freedom of Information Act (FOIA) and will reference only a portion of those in our comments, reserving the ability to use them in different actions in the future. As a result, these comments are not intended to convey an exhaustive listing or description of all the flaws, violations and concerns. Given the possibility of formal complaints and/or legal actions we reserve the right to add to or modify this list in the future. In addition, since these comments are provided in response to NEPA and not in response to a SEPA hearing, (which has not occurred yet), we reserve the right to provide additional information pertinent to SEPA at a later date. For ease of reference the following list summarizes the major issues discussed in this document.

Part I FAA threats forced Snohomish County to pass terminal resolution

FOIA obtained documents; Flawed EA consultant selection

Part II EA scoping is improper, creates fatal flaw: does not comply with NEPA

Part III Comments on impacts that the EA failed to address

Part I: FAA Threats Forced Snohomish County to Pass Terminal Resolution

FOIA Obtained Documents; Flawed EA Consultant Selection

Without a resolution would there have been an EA?

Summary. The FAA coerced Snohomish County into authorizing the construction and payment of a terminal against both the County's wishes and against FAA's own rules. Its actions poisoned the atmosphere for negotiations and for unbiased consideration, creating bad faith and forcing a decision by the County Council that may not have happened in a less threatening environment. The FAA should acknowledge that such threats were improper and the County Council should have the opportunity to reconsider its decision to pay for a terminal, or have the prospective airline applicants pay for a terminal, in an environment devoid of threats from the FAA. The FAA, and specifically Carol Suomi, Manager, Seattle Airports District Office, has taken positions that seem to pervert the discretionary grant program by misuse of the grant assurances in an effort to compel and direct the County to do what she wants. Under such circumstances, this entire EA should be invalidated since it is premised on wrongful actions and on a terminal that have significant design changes if airline applicants pay for its construction. Support for this argument is provided below.

In a legal memorandum written by Kaplan Kirsch Rockwell¹ on 7 Jan 2009 for the County about its obligations with respect to scheduled air service, the law firm writes:

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

- **Is not required to construct facilities to accommodate the carrier if such facilities do not already exist."**

This finding is consistent with a letter from the FAA to Save Our Communities dated 12 Dec 2005 (enclosed), where the FAA stated the following:

SOC: "Does the FAA actively force a change in the role of any airports from general aviation to commercial air passenger or air cargo?"

FAA: "While the FAA provides expertise and guidance on growth planning, and compliance with grant assurances to airport sponsors, **we do not force an airport to change its role from general aviation to commercial air passenger or air cargo.**"

¹ Memo from Kaplan Kirsch Rockwell to Snohomish County, "Obligations to accommodate commercial Air Service", 7 Jan 2009, p. 4

SOC: “If a commercial carrier asks the FAA to enforce grant assurances, would the FAA require the airport operator (such as Snohomish County) to pay for upgraded facilities, terminals, baggage, parking, road and traffic improvements, and other direct or indirect costs necessary for an air carrier to operate?”

FAA: “The prime obligation of the airport sponsor is to operate the airport for the use and benefit of the public. **While the owner is not required to construct or upgrade facilities**, it has the obligation to 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.) The airport sponsor has a duty to negotiate in good faith for the lease of such premises as may be available for the conduct of aeronautical services.”

Finally note: The County only has an obligation to “negotiate in good faith” with prospective air carriers. The County’s own attorney states:

“... federal law and FAA regulations **do not require that negotiations with a prospective carrier be successful**...”²

Summary: the County is not required to fund a terminal, negotiations in good faith need not be successful, and the FAA does not force a role change. A reasonable “arms length” negotiation between the County and prospective air carriers should take place.

However, in February of 2009, the County Council is suddenly considering a motion to pay for funding a terminal. According to the January legal memo:

“FAA staff has explained that, if the County is unwilling 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.”

“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.”³

On January 7, 2009, Carol Suomi wrote:

“... I believe it is time to push them harder to move towards commercial service. There is a County Council Meeting next Monday, and I would really like to have this out by Friday of this week.”

And in another quote:

² Ibid 1, p. 7

³ KKR memo p. 11

“... In conclusion, the bottom line is that county must provide concrete evidence, such as a signed contract, that they will meet their grant obligations before we would award discretionary funds towards any requested projects”⁴

Apparently, the FAA has created a basis for funding a terminal or ... risk losing Boeing.

The FAA has provided discretionary grants to Paine Field for 45 years. It then threatens to withhold those grants unless the County builds a terminal for private commercial carriers. This is very troubling because the FAA is essentially blackmailing the taxpayers of Snohomish County. This also violates the FAA’s Airport Improvement Handbook (FAA Order 5100.38C) that states in part 25 (g):

“(1) Projects funded with any discretionary funds should be based on the national priority system in Paragraph 320.”

In other words, the FAA should manage discretionary funds according to its objective rules, not according to subjective desires of its local administrators.

Please respond:

1. Why did the FAA claim that \$70 million of discretionary funding from the stimulus package was at risk?
2. How did the FAA know this on January 7, 2009 before the new President was inaugurated and before Congress passed the stimulus bill?
3. Are Boeing activities considered high in the national priority system?
4. How much of the discretionary funding given to Paine Field was for projects necessary to ensure Paine was in serviceable condition for Boeing and related activities?
5. Is the FAA intending to circumvent its own AIP Handbook to fund a terminal beyond the limit of \$200,000 per year?
6. Did the FAA successfully suggest using entitlement funding from other airports to help fund the terminal? Did any airports that gave up their entitlement funding of \$150,000 receive “any” discretionary funding after transferring their funds to Paine Field for terminal construction?

As of February 4, 2009, no stimulus bill had passed, yet these fictional dollars are at risk.⁵ This denies them any credibility. They have created fact out of fiction to sway the County Council and the public.

⁴ E-mail from Carol Suomi (FAA) to Donna P. Taylor (FAA) dated 02/03/2009

⁵ The American Recovery and Reinvestment Act of 2009, abbreviated ARRA (Pub.L. 111-5), is an economic stimulus package signed into law by President Obama on February 17, 2009

The FAA's threat to remove discretionary funding at Paine Field, when they KNEW it could negatively affect Boeing, was a pre-emptive move to force a role change. This violates FAA's own policy. As shown by documents obtained by SOC from a Freedom of Information Act Request, the FAA gets involved in discussions with an airport proprietor only AFTER a carrier has filed a formal complaint AND the airport proprietor has failed to resolve that complaint. The quote from an FAA memorandum shows this:

Enforcement – "If Snohomish County declines Allegiant Air's proposal Allegiant may pursue a formal complaint under 14 CFR Part 16, Rules of Practice for Federally Assisted Airport Enforcement Proceedings, against PAE. 14 CFR Section 1623(a). Allegiant must "initiate and engage in good faith efforts to resolve the disputed matter" with PAE prior to filing a Part 16 complaint. 14 CFR Section 16.21(a). If the FAA determines under Part 16, that PAE is in violation of its grant assurances, the agency may issue a compliance order terminating eligibility for future grants or suspend payment of grant funds."⁶

The airlines had not formally complained yet the FAA, under Carol Suomi's direction, persisted. Even internal FAA memoranda confirm that Ms. Suomi was over-stepping her authority. See below. (Emphasis added)

"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 2nd 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**

⁶ FAA Memorandum To Associate Administrator for Airports From Donna Taylor, ANM-600 Prepared by: Joelle Briggs, ANM-626, 425-227-2626 Friday, May 23, 2008

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 3rd 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.”**⁷

At SOC's request, Congressman Jay Inslee called Ms. Suomi on February 5, 2009 to discuss concerns raised by the FAA's heavy-handedness the day AFTER the County Council voted for the terminal. Representative Inslee memorialized his conversation with Ms. Suomi in a letter dated February 6, **copy enclosed**. This confirms further that the FAA had received no complaints from the airline applicants and that Snohomish County was negotiating in good faith.

These documents also confirm that the FAA was acting pre-emptively against Snohomish County to force a role change of Paine Field. They enforced this threat with the potential loss of discretionary funds. The following email further supports this:

From FAA Seattle Airports District Manager (emphasis added):⁸

“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.”

A Snohomish County EDC e-mail confirms the threat as follows:

“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 and that until there is a deal struck with

⁷ Joelle Briggs/ANM/FAA memo to Carol Suomi and cc to others in the FAA 01/08/2009

⁸ Carol Suomi/ANM/FAA email to Roman Pinon, Stan Allison, Tim Shaw, Cayla Morgan, Bill Watson all FAA on 01/08/2009

Horizon for a lease and an adequate terminal **that** those dollars and any stimulus dollars will not be issued.”⁹

The FAA’s heavy-handed tactics worked. In a 4-0 vote of the County Council on February 4, 2009 the Council voted to build a terminal.

As reported in the Everett Herald (2/5/09)

“The Snohomish County Council **had no realistic choice** Wednesday when it gave the county executive directions for negotiating a deal to bring commercial passenger service to Paine Field. It had to follow the law, and by a 4-0 vote, it did.

Dave Gossett, ever the practical voice of the council, put it best when he said, ‘**I’m not willing to play a high-risk game of chicken with the FAA that could result in a loss of airport grant money** and help push the Boeing Co.’s widebody manufacturing to another state.’

Later, in a written statement -- notable for its conciliatory tone toward the council -- Executive Aaron Reardon pointed out that the Federal Aviation Administration ‘**has strongly warned that Snohomish County cannot stand in the way of commercial flights, or it risks losing tens of millions of dollars in federal grants**’ for airport improvements, funding that’s critical to Boeing’s long-term success here.”

Please respond:

1. Why did the FAA violate the public trust, its own rules and possibly Federal law, while creating a high stakes, high-risk game involving the nation’s largest aerospace manufacturer?
2. Why is the FAA advocating so aggressively for Horizon & Allegiant airlines?
3. Why did the FAA break its own stated rules in the AIP Handbook and its stated position to SOC in its letter of Dec 5, 2005 letter that it does not force a role change?
4. Why did the FAA act pre-emptively when it had received no complaint by any airline?
5. In view of these findings, why should the EA not be negated? Alternatively, why should an EIS not be done?
6. Has the County now received \$70 million of stimulus funding that the FAA allegedly held in abeyance pending the County’s vote? What is the status of the \$70 million of stimulus funding that the FAA said was in jeopardy?

The County Council’s vote was coerced, so the entire process leading up to such coercion should be reviewed with the Council having the opportunity to reconsider its

⁹ Mike Deller, Bank of Everett e-mail to Snohomish County EDC February 02, 2009 4:53 PM obtained via FOIA request as Airport Director Waggoner forwarded to FAA

vote. The Council should be able to consider giving the airline applicants the opportunity to pay for the terminal and other improvements at Paine Field without taxpayer subsidies. Following such decisions by the County, only then can an EIS be considered, possibly based on a terminal paid by the airlines themselves.

We specifically request that the FAA apologize for such coercion, that the FAA demonstrate clearly to the County that discretionary funds are, in fact, not jeopardized by any action that the County takes, or does not take, with respect to funding a terminal, and that the County is in full compliance with FAA rules whether or not the County chooses to subsidize terminal construction. The FAA must take all necessary steps available to clear the poisonous atmosphere it created by its coercive actions.

Part II: EA Scoping is Improper, Creates Fatal Flaw: Does Not Comply with NEPA

Public Considered the Opposition

After forcing a County Terminal Resolution, the FAA turned towards addressing NEPA barriers and dealing with the “opposition”, a term Ms. Carol Suomi used in internal communications. Apparently, the very public being protected by NEPA is considered the “opposition” by the senior FAA official responsible for threatening the County and influencing the scoping of the NEPA process – a process that minimized the public’s role.

Please respond:

1. Is Ms. Suomi the official responsible for making the final decision on the EA disposition (FONSI or EIS)?
2. What are the criteria and procedures for requesting that an official be recused from a decision if they are found to be compromised in their ability to make an unbiased and objective decision?

FAA Denies Wanting Airlines in Paine Field

The FAA spokesperson following the third EA hearing was quoted in the Everett Herald stating that the FAA was not taking a position on whether airlines should be at Paine Field but was following the law – apparently, this spokesperson had not checked with the FAA Seattle Airports Manager, Ms. Suomi, who built a record through multiple internal and external FAA communications demonstrating a focus on getting airlines into Paine Field.¹⁰ This is just one thread of communications that reveal a mindset and focus on a predetermined outcome. The preponderance of documented communications creates the inescapable conclusion that this same mindset and focus influenced the approach to NEPA and the limited, flawed design and scope of the EA.

FAA Seeks Least Resistance NEPA Compliance Path

FAA considered no EA at all: FAA internal discussions demonstrate an inconsistent understanding of NEPA requirements. This conclusion is based on FOIA obtained internal FAA discussions that initially focused on using a Categorical Exclusion determination. A Categorical Exclusion approach would have allowed the FAA to avoid having to do an Environmental Assessment (EA) or a more comprehensive Environmental Impact Statement (EIS) altogether.

¹⁰ Numerous e-mails obtained via a FOIA request provided by the FAA to SOC

Eventually, FAA internal discussions led to a sharing of documents pointing out that the FAA had to at least conduct an EA if not an EIS for all the federal actions being considered. Once the FAA accepted this reality internally, the focus turned to scoping, consultant selection and funding. Approaches to all of these were flawed as shown below. The FAA still pursued their streamlined and simplified approach to drive towards a predetermined outcome – see the following quote:

“That said, it looks like an EA can be prepared that **would** document that there are no significant impacts without a lot of time and expense. A 30 day comment period will be needed, **but that certainly doesn't stop a project**, it just means that we will likely have to provide responses to comments in the final EA” (emphasis added)¹¹

Please respond:

1. If the outcome is predetermined and public comments don't matter because the project will continue in any event, then please answer how the intent, spirit and requirements of NEPA have been met?
2. Does the FAA intend to assess and incorporate public comment or disregard the public entirely and issue a pre-determined FONSI?

Scope is Flawed, Limited and Designed to Support a FONSI

FONSI was the goal before the EA started: There was internal acknowledgement that the scope would be the key to the EA's outcome: a narrowly defined scope would produce the desired outcome of having the EA result in a Finding Of No Significant Impact (FONSI). Furthermore, EA draft timetables dated as early as January 29, 2009 listed the conclusion as a FONSI even before the scope was finalized and consultants selected. Clearly, once the Categorical Exclusion option was ruled out, the FAA pursued the next least onerous outcome by conducting an Environmental Assessment that results in a FONSI with virtually no consideration of the possibility that an EA could result in significant impacts requiring an EIS. The FAA's confidence may be rooted in the fact that they set the rules, direct the scope, “approve” the forecasts, hire the third-party contractor and then they determine if the work they choreographed was adequate to support a FONSI. There appears to be no real checks and balances in this approach outside of political pressure or legal action.

Please respond:

1. Why did all the timeline schedules starting with the January 29, 2009 timeline end in a final step FONSI (Finding Of No Significant Impact)?
2. Is it true that an EA can result in moving to an EIS?

¹¹ Cayla Morgan/ANM/FAA e-mail to Carol Suomi/ANM/FAA dated 01/29/2009

3. Does the absence of the EIS option in the timelines as a possible result indicate a bias and predetermined thought process by those involved? If not, then why wasn't the potential of an EIS option considered?

Minimal forecasts not sufficient for acceptable EA: Internal FAA communications and interaction with Paine Field staff on scoping included whether to use or modify Terminal Area Forecast numbers and whether to use Allegiant and Horizon forecast flight and passenger forecasts.

Forecasted numbers do not account for “potential” activity levels over a long timeframe. Allegiant forecasts a 400% increase in 5 years in the number of cities that they will serve out of Paine Field and a 500% increase in the number of flights. Even this minimal forecast shows a significant growth rate pointing to continued rapid expansion beyond 5 years. Even the FAA states that “The purpose of an EA is to determine whether a proposed action or its alternatives has the potential to significantly affect the environment.”¹² **Potential** does not mean minimal or limited. Therefore the FAA requires itself to assess **potential** capacity and the associated **potential** impacts of changes precipitated by federal actions including changing the operating certificate of the airport to allow for unconstrained commercial flight activity. The EA limited scope provides a prima facie case of a failure to comply with this clear and logical requirement.

Horizon does not commit to own forecast: In a letter to Paine Field airport staff from Horizon, the airline states “This information may not accurately reflect the actual number of operations, aircraft types, number of passengers carried, etc. at any given time and also does not constitute an offer, proposal, agreement or commitment of any kind by Horizon Air.”¹³ Even with this qualification by Horizon, the FAA and Airport staff accepted it as good enough to assess environmental and public impacts. We find this unacceptable. Horizon has no accountability to the FAA or to the community should they choose to expand operations well beyond these initial estimates. Relying upon a forecast the airline itself does not “accept” cannot be defended as a legitimate assessment of the reasonably foreseeable potential activity encouraged by these federal actions.

Please respond:

1. Why was the EA based on minimal flight activity and passenger levels provided by Horizon and Allegiant? What were their forecasts based on?
2. If Horizon won't commit to their own forecast then why should the County and the FAA?

¹² FAA Order 1050.1E CHG1 Section 201b and in multiple other sections as well

¹³ Horizon Air Letter to William Dolan dated March 15, 2009

3. Under what federal law or rule would Horizon, Allegiant, the County or the FAA be bound by these forecasts? What is the penalty for creating impacts beyond these minimal forecasts?
4. Why didn't the FAA comply with FAA Order 1050.1E CHG 1 requiring assessment to determine if the proposed action or its alternatives have the potential to significantly affect the environment?
5. Why does the FAA and this EA fail to identify mitigation actions associated with the potential to significantly affect the environment?
6. What is the FAA's definition of "potential"?
7. Does the FAA intend to enforce economic non-discrimination requirements to ensure unconstrained scheduled commercial air service if the Operating Certificate is changed from Class IV to a Class I Certificate?
 - a. If Allegiant and Horizon initiate commercial air service at Paine Field, will the FAA allow the County to limit their activity to 10 flights a day for Horizon and 10 flights a week for Allegiant?
 - b. Will the FAA allow the County to place any limit on Allegiant and Horizon flights and passenger throughput so long as such activity complies with safety and security operations?
 - c. If the FAA does not allow restrictions, then how does the FAA reconcile using a limited scope of assessment?
8. Boeing has announced a three to five hour flight next week and the aircraft is not certified and therefore considered by FAA to be an experimental plane. If Horizon and Allegiant were operating scheduled commercial air service at Paine Field would the FAA allow the Boeing flight and airfield closure to take priority over scheduled Horizon and Allegiant flights? If not, then why aren't potential impacts to Boeing assessed?
9. Why wasn't the EA based on independently assessing higher potential activity levels that would obviously produce greater impacts?
10. Why didn't the FAA start with an EIS?

FAA sought to facilitate start up by minimizing mitigation and other costs to airlines: The airlines and the FAA understood that lower activity levels would result in lower impact assessments needed to support a FONSI. A FONSI would result in no mitigation actions resulting from the EA and thus no mitigation costs. The County would therefore not be able to use EA-identified mitigation costs as part of the negotiations in making the airport available on reasonable terms – terms the FAA itself stated could include direct

and indirect costs¹⁴. An artificially reduced scope was just another step in fulfilling start-up requirements of low cost airlines. In addition, the FAA is seeking ways to fund the terminal to take the cost pressure off the County and the airlines – lowering the barriers to entry and subsidizing the start up. Together these actions dramatically reduce direct/indirect costs thereby guaranteeing a lower cost negotiation between the County and the airlines – apparently, this is exactly what Ms. Suomi was seeking as evidenced by the following internal FAA communications:

Joelle Briggs/ANM/FAA 02/04/2009 09:57 AM to Carol Suomi (copy to others in FAA)

“... As you and I discussed, satisfactorily concluding negotiations does not mean that it must be a conclusion that has the airlines using Paine Field. It is possible for whatever reasons that the airlines decide during negotiations that this is not in their best interest.”

Carol Suomi response to Joelle Briggs 02/04/2009 10:12 AM

“Yes, Joelle, you are absolutely right, and I have had this conversation with the County. But, this is what the opposition is hoping, and would love for us to say (which is why I like not saying it). The opposition wants it to be so difficult and onerous that the airlines will give up.”

Please respond:

1. Why is the FAA assisting the airlines at Paine Field so aggressively that the FAA has engaged in coercion, conflicts of interest, manipulating federal subsidies, and irresponsibly minimizing the scope of the EA?
2. How does this internal conflict measure up to the objectivity expected and required by FAA policy, FAA orders and NEPA?
3. How could any reasonable person including elected officials, senior FAA or DOT officials or a judge not conclude that this process and predetermined outcome focus summarily fails the required objectivity litmus test?
4. What is the FAA’s plan to correct these issues?

Distorted market not acceptable as basis for the EA scope: Following a public hearing on the EA, the Paine Field airport director responded to calls to assess potential activity levels and impacts by stating that “market demand” will determine the level of activity. This approach does not address overall potential activity. Market demand cannot be part of the forecast and scope discussion without recognizing the influence of the distorted market that subsidies create. A subsidized market would increase activity levels including the diversion of market share from existing airports. The only way to truly account for foreseeable potential activity and meet the public protection requirements of NEPA is to assess the maximum capacity of the proposed federal actions.

¹⁴ December 2005 FAA ltr to SOC, enclosed

The EA timeframe should not be limited to five years: A short timeline of 2015 or 2016 was discussed in FAA communications with the only rationale being a reference to air quality conformity requirements for the State Implementation Plan (SIP). The SIP requirements do not dictate the length of an EA as confirmed by discussions with an air emissions regulatory authority. Furthermore, the FAA itself requires longer-term forecasts and master plan updates but when it comes to this EA, the FAA suddenly chose to discard those longer-term forecasts. The FAA has repeated that they are only following the law. However, no law requires this EA to set a record for the shortest timeline ever studied under NEPA for a federal action that in effect has the potential to change a region forever. On the contrary, NEPA requires an objective assessment of the impacts of a federal action.

The FAA instead determined this limited scoping design with input exclusively from Paine Field staff, the third-party contractor and the applicant airlines. Did they consider the public protection required in NEPA when providing input on the scope and forecasts? We do not see any documented evidence that the intent, spirit and compliance with NEPA were the basis of their input.

Please respond:

1. Why shouldn't an EIS be based on the maximum potential capacity of Paine Field after being certificated as a Class I airport?
2. Internal FAA communications regarding scope initially included assessment of the full capacity of the terminal(s), so why was the assessment criteria removed from the scope?
3. Why shouldn't a new EIS be based on a 20-year forecast? A 30-year forecast?
4. Why was this EA referenced to an air emissions conformity report with only a 5-year forecast?
5. What is the legal or rule based precedent requiring the EA scope to match timelines with an air emissions conformity report? If this was a project in 2014, would the timeline be matched to the SIP air emission conformity report of a scant one-year later?

This approach has produced an EA with a minimized and non-compliant scope that defies logic given the requirement to assess impacts of proposed federal actions. The FAA trick of looking at "foreseeable" activity levels where they define foreseeable is full of conflict of interest issues and avoids the requirement of assessing and mitigating potential impacts as required under NEPA.

FAA in Conflict: Minimal EA Scope incompatible with FAA Rules: If the FAA takes federal actions, including changing the Part 139 Operating Certificate of Paine Field to allow schedule service at Paine Field, then by FAA rules the airport may not constrain

additional flights from the initial air carriers or discriminate against other carriers that want in. On the one hand, the FAA wants to assess/mitigate the impacts of this role change on a relatively low level of activity while on the other hand their regulations require that the airport accept any and all activity literally 24/7. This reality demonstrates the conflict FAA has in promoting a minimal EA.

Please respond:

1. How does the FAA respond to this conflict?
2. Shouldn't the FAA address this conflict with a properly scoped EIS based on the maximum capacity of the airport? If not, why not?

The EA document is fatally flawed due to a minimal, inadequate and non-compliant scope. The EA is required because of planned federal actions. One of the federal actions is to change the Paine Field Operating Certificate from a Class IV to a Class I. Such a change opens the door to virtually unconstrained scheduled commercial service up to the safe capacity of the airport.

Please respond:

1. If the FAA allows for a "role change" for Paine Field then why not consider the impacts from "unconstrained activity" which FAA regulations require?
2. Why does FAA's Carol Suomi state that this is not a role change for the airport?
3. How is the use of short-term minimal activity levels as the scope of activity for the EA compatible within the purpose, spirit and intent of NEPA?

A minimal scope is duplicitous and seeks to avoid accountability and responsibility for the true potential impacts of federal actions. It adds insult to injury for the Airport and FAA staff to promote the low initial, estimated airline activity numbers from the applicants, knowing that FAA rules do not allow constraint of their activity levels once they start. The obvious incentive for the FAA, the airlines and the airport was to use the lowest numbers possible in order to ensure a FONSI by the FAA and thereby facilitate a quick low cost start up.

Please respond:

1. Please comment on the above referenced items. Shouldn't the FAA order an EIS based on full potential impacts?
2. Why is the FAA promoting an EA based on the airline applicant's activity levels, when the FAA knows those levels will easily be exceeded over a relatively short time?
3. Was there any effort to design the scope in this EA to create conclusions that have de minimus impacts?

The EA should be discarded and an EIS with a proper scope should be initiated: the new scope must be designed to account for all the potential activity levels and impacts of each of the following distinct federal actions:

- Part 139 Operating Certificate changing the role of the airport
- Allegiant operating certificate for aircraft and cities proposed
- Horizon operating certificate for aircraft and cities proposed
- FAA funding (or partial funding) of a terminal (they call it an expansion of the existing terminal)

EA Preparation and Scoping Was Not a Public Process

FAA rules allow the agency to involve the public during the scoping process including government and non-government organizations.¹⁵ In fact, FAA encourages and supports a public EA scoping process for situations like Paine Field¹⁶ (emphasis added):

“Although scoping is not required for EAs, scoping could enhance EA preparation and content. This is especially so when the proposed action is highly controversial or involves special purpose laws or other environmental concerns....

a. Conducting EA scoping. Instead, the airport sponsor should use the local media or mail to notify the public that it is planning to conduct scoping for an EA.”

Please respond:

1. Why didn't the FAA invite interested governmental and non-governmental agencies to participate in the scoping process for this EA?
2. Why didn't the FAA and County Airport share documents and rationale related to making scope decisions?

Doing so would have helped to ensure that all concerns were heard early in the process so they could have been accounted for in the scope and design of the study. The FAA actually has guidance promoting involvement of the affected community as follows¹⁷ (emphasis added):

EA PREPARATION COORDINATION. Text at 40 CFR 1501.4(b) states:

“The [Federal] agency shall involve environmental agencies, applicants, and the public, to the extent practicable, in preparing assessments ...

¹⁵ See FAA Order 1501.7

¹⁶ FAA ORDER 5050.4B Part 705 Dated April 2006

¹⁷ FAA ORDER 5050.4B Part 704 Dated April 2006

a. Public input. EA preparers should coordinate with resource agencies, industry groups, and the affected community as practicable and necessary to ensure the EA addresses those issues of greatest public concern.”

The FAA and Paine Field staff chose instead to minimize community involvement and public process to implement a “de-minimus” path towards a FONSI – a path they apparently felt was defensible. This approach fails on several levels including a failure to comply with the intent, spirit and purpose of NEPA.

Please respond:

1. Why did the FAA disregard FAA Order 5050.4B with regard to involving the public in EA preparation?
2. How did the FAA conclude it could ensure the EA addressed those issues of greatest public concern without fully involving the public?

Sole Source Consultant and a Conflict of Interest Violation – EA Invalidated

The NEPA process requires a selection process that produces a truly independent, qualified consultant devoid of conflict of interest and free from bias related to past or future financial gain. However, the consultant, Barnard Dunkelberg & Company, was targeted for selection early on based on past performance at Paine Field as demonstrated in this e-mail from Paine Field staff to the FAA:

“I understand that a cat x is not an option and we need to get a consultant underway to develop an EA. We selected Barnard Dunkelberg in 2007 for a multiyear on call planning contract. ... I would like to give RYK a call today if possible to get him underway.”¹⁸

There is no documentation that a competitive bid process was used. Given the fact that this consultant was working with the FAA shortly after this communication, the only conclusion is that this was a sole source selection. Since Paine Field has used this consultant for no less than the last 15 years, it is reasonable to assume that future work may be more likely if the EA met expectations of the funding source (FAA) and the airport staff. The sole source hiring not only used taxpayer dollars but was also made at the expense of the public’s need for an independent, objective and unbiased analysis. In addition, after the hiring there was an all too cozy relationship between the consultant and the FAA as depicted in the following FOIA obtained email excerpt below:

Ryk Dunkelberg (Consultant) to Cayla Morgan (FAA) 3/11/2009

Top of the morning, sweet Cayla and a Happy Wednesday! Welcome back from vacation, hope all was well and you had a wonderful time.

As always, have a great and groovy day and call with questions!!

PS I DO have tickets to see Bruce Springsteen in three weeks!

¹⁸ Bill Dolan (Paine Field) to Cayla Morgan (FAA) 2/6/2009

Please respond:

1. Did the FAA and/or Snohomish County perform a competitive bidding process to identify the consultant? If so, please provide documentation that demonstrates a fair, objective process was used. If not, why not?
2. Why was the consultant chosen on a sole-source basis?
3. Please show how the procurement process for the EA's consultant followed the FAA's Acquisition Management Policy.¹⁹
4. Has the Responsible Official prepared a disclosure statement specifying that the contractor has no financial or other interest in the outcome of the project? (40 CFR 1506.5(c)), (FAA 1050.1E section 204b[1])
5. Why has the FAA and/or Snohomish County used the same consultant repeatedly for projects involving the airport over the past several years?
6. Doesn't this present a conflict of interest since the consultant has clearly lost their objectivity?

FAA Uses Funding of EA to Demand County Terminal Resolution

The FAA told the Airport Director they would not fund an EA unless the County agreed to build a terminal:

Feb 9, 2009 Carol Suomi to Dave Waggoner: "There will only be funding of an EA IF the County agrees to build a terminal...."

Draft EA/Hearings Timing Demonstrates Low Regard for Public Input

The FAA decision on the timing of the release the Draft EA over the holidays and scheduling hearings in the first two work evenings after the holiday reflects a disregard for public comment – a de-minimus approach to use a term from the EA. Under pressure, the FAA extended the comment period and scheduled a third hearing at a location closer to the airport. However, the scheduling decisions reflect another example of the mindset and approach prevalent throughout the process – one that has served to undermine the public trust. Furthermore, the FAA failed to ensure public involvement as described in the following FAA Order 1050.1E CHG1:

"208. PUBLIC INVOLVEMENT

208a. NEPA and the CEQ regulations, in describing the public involvement process, require Federal agencies to: consider environmental information in their decision making process; obtain information from the public regarding environmental concerns surrounding an agency's proposed action; fully assess and disclose potential

¹⁹ See FAA Order 1050-1E section 204b

environmental impacts resulting from the proposed action and alternatives; and provide the public with this information and allow it to comment on these findings.”²⁰

Please respond:

1. How does the FAA reconcile public involvement with the release of the EA just prior to the Christmas holiday season?
2. Why were EA hearings scheduled for the first two working days in the New Year? How does this represent good faith efforts to obtain public input?
3. Demonstrate how the EA process complied with public involvement policy and rules as set forth in FAA Order 1050.1E CHG 1, NEPA and CEQ?

²⁰ FAA ORDER 1050.1E CHG 1 Section 208

Part III Comments on impacts that the EA failed to address

We note some specific comments here on several issues. However, all environmental issues enumerated in the original EA must be reassessed in an EIS after a new scope is developed based on full impacts of the airport changing from a Class IV to a Class I airport, with two terminals at full capacity.

EA Assumptions and Methodologies not Transparent

The Draft EA fails to provide full transparency regarding assumptions, scope and analysis in a number of areas.

Please respond:

1. What are the qualifications of the company producing the Draft Environmental Assessment (DEA)?
2. Will those qualifications and the standards and methodology they apply be made public?
3. In particular, where have the employed methodology and standards been previously applied and how successful were they in accurately predicting the environmental impacts that resulted?
4. Given the current lack of information about the EA's process, why shouldn't this EA be invalidated in favor of an EIS? If we cannot assess the assumptions and methodology, then we cannot assess the output. For this reason alone, the EA fails and an EIS should be done.

In addition, outside of construction activities, the various items assessed (traffic, schools, pollution, etc.) are all based on a scaled back number of flights. The EA therefore minimizes the overall impacts in virtually all areas.

Please respond:

1. Doesn't the public deserve, and doesn't NEPA demand, an assessment of the reasonable worst case associated with all the involved federal actions including changing the airport role to allow for scheduled service?
2. Based on the flaws identified in the EA, shouldn't an Environmental Impact Statement be conducted that properly addresses the full impacts, items that must be mitigated, and costs to mitigate?

Failure to Adequately Assess Alternatives as required by NEPA

According to the EPA, "EPA's regulations implementing NEPA require evaluation of the no-action alternative, which provides the baseline for comparison of the action alternatives."

The "baseline" needs to be established as an environmental reference and comparisons made to future direct, indirect and cumulative effects from the proposed alternative. Our comments below show a general failure to assess or analyze a baseline properly for such items as air pollution, traffic, impact on children, etc.

Further, once a baseline has been properly established, the comparison to the "action alternatives" must be based on the full capacity of a two terminal airport, as stated repeatedly throughout this document.

Finally, an objective analysis would reveal that in many cases, the "no action alternative" would likely be the preferred alternative. The "no action alternative" would provide the least environmental impact on air pollution, land use compatibility, noise, children, etc.

Please respond:

1. Why hasn't more analysis and assessment been done to properly develop a baseline for air, ground, water, traffic and other environmental impacts?
2. Wouldn't the "no action" alternative be the more likely alternative if baseline comparisons were properly compared to the action alternatives, especially when compared against unconstrained flight activity with two-terminal capacity at Paine Field?
3. Why is purpose and need not defined? How can the consultant use undefined purpose and need as a basis for eliminating alternatives?

Environmental Consequences / Environmental Health and Safety Risks

The EA fails to adequately or responsibly identify the known potential impacts. The EA's limited projection period of only five-years does not adequately address the known health risks associated with residing in close proximity to commercial airports. The 25 TPY of Carbon Monoxide (CO) that would put PAE above de minimis standards would require approximately a 25% increase in the estimate of total operations. Once the commercial certificate is issued, the commercial flights are likely to jump beyond the deceptively low estimate of 20 operations a day to a much higher number, as happened in Bellingham (BLI) for example. Additionally, the estimate that technology will become cleaner is also liberal. The GA flights, with leaded particulates, and the jet flights with

the even more hazardous addition of ultrafine particles, create a lethal combination for the air quality in the residential zones surrounding Paine Field.

In a 2009 article, 'Aircraft Emission Impacts in a Neighborhood Adjacent to a General Aviation Airport in Southern California',²¹ University of California researchers discovered highly elevated ultrafine particle (UFP) concentrations downwind of the Santa Monica Airport (SMA). The author, Dr. Suzann Paulson, recently confirmed that we would expect to see an increased level of UFP's given commercial flights at Paine Field, considering that meteorological conditions would increase the accumulation and concentrations at ground levels due to the lower night and winter temperatures compared to southern California daytime temperatures and SMA nighttime flight restrictions. Additionally, the South Coast Air Quality Management District made measurements of PM_{2.5}, total suspended particles (TSP), lead, and ultrafine particle concentrations in the areas around SMA, and nearby Van Nuys Airport. They found highly elevated total suspended particulate lead, by up to a factor of 25 immediately adjacent to the takeoff area and a factor of 7x higher than background in the residential area. They also observed spikes in ultrafine particle number concentrations associated with aircraft departures. A study of London Heathrow Airport²², reported aircraft NO_x at least 2.6 km from the airport. VOC, NO_x, CO, and CO₂ were measured around the Zurich Airport.

Surrounding Paine Field are five schools, a community park, an intensively used 4-field little league complex and a YMCA summer camp within 1 km of the airstrip. There are more than 15 schools within a 3 km radius. The FAA, Airport manager Dave Waggoner and the EA ignore the very serious and devastating impacts commercial flights at Paine Field will have on the community and the air quality at public and private schools and daycare facilities.

It is unconscionable to change the classification of Paine Field considering the fact that the surrounding communities were built on the assumption that Paine Field would continue to be an airport used for general aviation and the Boeing Company. Indeed, if the airport is expanded, we will have an ideal human case study on the epidemiological impacts on children raised within the vicinity of a commercial airport. The 37,000 + children who live in this community and attend elementary school, middle school, high school, day care and preschools deserve to breathe the cleanest air possible, not to be subjects of a misguided experiment in human health risks. To better understand the effects of air pollution on children's health, please see the studies published in *Pediatrics* (2004).

²¹ Shishan Hu, Scott Fruin, Kathleen Kozawa, Steve Mara, Arthur M. Winer and Suzanne E. Paulson, Aircraft Emission Impacts in a Neighborhood Adjacent to a General Aviation Airport in Southern California, *Environ. Sci. Technol.*, 2009, 43 (21), pp 8039–8045

²² Schrmann, G.; Schfer, K.; Jahn, C.; Hoffmann, H.; Bauerfeind, M.; Fleuti, E.; Rappengluck., B. The impact of NO_x, CO and VOC emissions on the air quality of Zurich airport Atmos. Environ. 2007, 41, 103–118

Air Quality

There is insufficient data in the Draft EA to address total air emissions impacts due to the foreseeable potential activity levels associated with the federal actions being considered.

SOC requests studies similar to those published in May 2009, in Environmental Health by Zhou and Ley, "Between-airport heterogeneity in air toxics emissions associated with individual cancer risk thresholds and population risks." Their findings indicated that site characteristics can be used to accurately predict maximum individual risk and total population cancer risk at a given level of emissions. Including airports with the meteorological inversions characteristic to those observed in Paine Field may elucidate future work expanding the data collected at 32 airports across the US.²³

Please respond:

1. Why doesn't the EA include the option of the maximum activity levels to fully account for all air emissions?
2. Why did the EA skip over air toxins described by the Puget Sound Clean Air Agency?
3. There needs to be a rigorous analysis of PM 2.5 since the county is on the brink of falling out of attainment on this priority pollutant. Will a new EIS be done to include such rigorous analysis?
4. Why did the EA not include a rigorous assessment of CO2 emissions given EPA's recent announcement and pending rules and legislation at the state level?
5. How does the EA assess health impacts without an acceptable air emissions analysis to establish a baseline?
6. Given the foreseeable expansion of activity based on the proposed federal actions including the desired and expressed growth of the two applicant airlines how can an air emissions assessment be accepted for a few flights looking no more than five years out?
7. Why do other EA's and EIS's on major projects or proposals have to look out farther than five years? For example, a 2008 Mead & Hunt EA, conducted prior to the construction of an Air Traffic Control Tower for University Park Airport in State College, PA included a 20 year table that looked back 4 years (to 2004) and projected out to 2020. The Puget Sound Regional Council is finalizing a 2040

²³ This study was sponsored by the Federal Aviation Administration (FAA) through the Partnership for Air Transportation Noise and Emissions Reduction (PARTNER) under Cooperative Agreement No. 03-C-NE-MIT-026, Subcontract Agreement No. 5710002069.

- plan, the FAA produces 20 year forecasts, and NEPA compliance efforts around the country including airport projects provide precedent for comprehensive scopes based on potential impacts rather than minimal assessments.
8. What rules prevent looking out 20 years at the potential activity level of the proposed federal actions in order to comply with NEPA by identifying potential significant impacts and associated mitigation?
 9. How does the limited scope and timeline compare with other air emissions assessments of major proposed projects or federal actions requiring NEPA compliance?
 10. With an expanded scope, why would the FAA oppose a more thorough air National Ambient Air Quality Standards (NAAQS) assessment and EIS?

Based on this issue alone and pursuant to the requirements of FAA Order 1050-1E, an EIS should be conducted.

Compatible Land Use: Significant Land Use Compatibility Issues exist

Changing Paine Field from a Class IV to a Class I airport with full capacity creates significant land use compatibility issues for cities throughout south Snohomish County. Based on a deliberate plan for managed growth that started 33 years ago, Paine Field is essentially surrounded by residential communities on all sides.

Background. Cities voiced concern about the potential development of Paine Field in the 1970's when the federal government deregulated airline travel. Residents then had the same concerns as residents now—they didn't want to live next to a major airport. As a result of such concerns, Snohomish County brought in arbitrators with the community and crafted a Mediated Role Determination (MRD) agreement of 1977/78, copy enclosed. The MRD stated that the County would "strongly discourage" development of Paine Field for air passenger and air cargo use. It created a three-legged balanced approach: the County would support aerospace activities (i.e. Boeing and its suppliers), support the community with limited activity from Paine Field, and support general aviation activity at Paine Field. The MRD's adoption by Snohomish County induced residential development; cities changed their land-use planning to zone from light and heavy industrial to residential. Such residential development has taken place for the past 33 years up to today, practically up to the borders of Paine Field.

The MRD has been reviewed six times in the past thirty years. Each time, Snohomish County has reaffirmed it, as recently as 2007.²⁴ The panel had the following final conclusions:

“The efforts of the community panel identified three primary, fundamental factors influencing the future role of the Snohomish County Airport (Paine Field):

1. Current federal law does not allow the County to prohibit or limit scheduled passenger air service.
2. Current federal law does not require the County to encourage or subsidize scheduled passenger air service.
3. **The County can and should insist that an airline pay its own way and mitigate its impacts.** (Emphasis added.)”

The MRD has been found to be a legally valid document despite relatively recent federal laws, such as the 1990 Airport Noise and Capacity Act that now restrict limitations on airline travel by local authorities.²⁵

The MRD induced 33 years of residential development around Paine Field, specifically with the promise of minimal flight activity from Paine Field. Federal laws might preempt the contemplated restrictions on Paine Field, but they cannot reverse the fact that every foundation of every home in the area is based on the MRD’s promise of limited use of Paine Field. As a result, the proposed action under the EA creates significant land use compatibility issues with the residential communities.

Indeed, the communities of Brier, Edmonds, Lynnwood, Mountlake Terrace, Mukilteo and Woodway have recognized the compatibility issues. Each of these six cities’ councils has issued resolutions opposing airline activity at Paine Field. Their mayors have agreed. **(See enclosed letter.)** Further, those cities have memorialized such understanding into their Municipal Planning Policies (MPP’s) while Snohomish County has memorialized such an understanding into its County Planning Policies, as required under the State’s Growth Management Act.

Growth Management Act creates significant land use compatibility issues.

Under the Growth Management Act, counties are required to adopt Comprehensive Plans that guide development in the County. Snohomish County’s Comprehensive Plan

²⁴ “Report on Mediated Role Determination for Paine Field,” Peter Camp, Executive Director, Office of Snohomish County Executive Aaron Reardon, May 16, 2007

²⁵ KKR Memorandum to Sno. Cty dtd 12 Oct 06

incorporates by reference the airport's "adopted role." In the Capital Facilities chapter of the Comprehensive Plan, two separate policies make this incorporation:

"The County shall plan for Capital Facilities that support the best use of the airport's remaining undeveloped and underutilized areas for airport-related uses **that fit within the airport's adopted role.**"

Capital Facilities Policy 7.A.1 (emphasis supplied).

"The County shall identify land acquisition priorities related to airport safety, future airport development, and land use compatibility **in accordance with the airport's adopted role.**"

Capital Facilities Policy 7.A.2 (emphasis supplied).

Explanatory text in the Comprehensive Plan that just precedes these policies makes clear that the "adopted role" refers to the role adopted in 1978. That explanatory text states, among other things, that "in 1973 the County initiated a planning study of the airport that generated significant public debate and eventually culminated in County adoption in 1978 of a general aviation role for Paine Field." The explanatory text discusses other plans that were adopted in 1981 and 1983 and then states that "[t]hese documents chartered a future for both the airport and the surrounding community that was predicated on a defined role for the airport that features continuation of Boeing's operations and expanding operations for general aviation." Thus, consistent with this text and the policies quoted above, the Comprehensive Plan's Capital Facilities Goal 7 states: "Develop investment strategies for Paine Field to support and enhance its role **as a general aviation** and industrial commercial facility consistent with the Airport Master Plan." (Emphasis supplied.)

The foregoing should establish that the MRD's General Aviation role for Paine Field has been incorporated by reference into the County's Comprehensive Plan.

In sum, while the MRD is not a legal "contract," the role it specifies for Paine Field has effectively been carried over into the County's Comprehensive Plan. The Comprehensive Plan clearly specifies that the role of Paine Field is to be for "general aviation." No reference is made to scheduled commercial operations.

In 1993, the Puget Sound Regional Council (PSRC) adopted Resolution A-93-03 amending the 1988 Interim Regional Airport System Plan (RASP). Resolution A-93-03 conditionally authorized construction of the third runway at Sea-Tac International Airport. That resolution also indicated that a "major supplemental airport should be located in the

four-county area within a reasonable travel time from significant markets in the region." The resolution also states, "**Eliminate small supplemental airports, including Paine Field, as a preferred alternative.**" Based on Resolution A-93-03 alone, we find continued incentives and inducements by municipalities to promote residential development in the areas immediately surrounding Paine Field and in those communities under the flight paths.

Therefore, the MRD in combination with PSRC's Resolution A-93-03 have created significant land use compatibility issues. These issues should be studied under an EIS with complete analysis as to the costs associated with substantial mitigation efforts that will be needed throughout the affected communities in south Snohomish County.

Countywide Planning Policies

The Growth Management Act requires Snohomish County and its cities to develop the CPPs and requires that Snohomish County's Comprehensive Plan (and the Comprehensive Plans of all the cities within Snohomish County) be consistent with the CPPs. RCW 36.70A.210(1). The CPPs are adopted by an amalgamation of Snohomish County and the cities within the Snohomish County. These various local government entities developed the document through the "Snohomish County Tomorrow" body.

The CPPs specifically address Paine Field and state that "land uses and zoning of Paine Field continue to be governed by the Snohomish County Airport Paine Field Master Plan and Snohomish County Zoning Code consistent with federal aviation policies and grant obligations." CPP Policy ED-3c. As discussed above, the Paine Field Master Plan arguably limits Paine Field to a "General Aviation" role.

Consistency with Comprehensive Plans of adjacent jurisdictions

Snohomish County's Comprehensive Plan must also be consistent with the Comprehensive Plans of adjacent jurisdictions. RCW 36.70A.100. Snohomish County cannot ignore the land use planning and development that has occurred in neighboring communities based on their good faith reliance on Snohomish County's earlier decision to limit Paine Field's role to General Aviation.

Mukilteo's Comprehensive Plan calls for a significant amount of residential development in areas bordering Paine Field. It also includes the following transportation policy: "The City of Mukilteo opposes physical and operational expansion of Paine Field General Aviation Airport to accommodate commercial aviation." TR 31. Also, "the City of Mukilteo shall actively participate in airport planning to decrease current noise levels, limit flight paths, limit evening and nighttime landings, and limit the number of incoming and outgoing aircraft at the Paine Field General Aviation Airport." TR 32.

Finally, as noted above, Snohomish County Executive Aaron Reardon formed an MRD Review panel in 2005. When it completed its work nearly 2 years later, the panel reaffirmed the MRD. The FAA (represented by Ms. Carol Suomi) participated in these panel meetings as an observer, and was well aware of the controversial aspect of the discussions.

Summary: Between the land use policies calling for significant residential development in areas surrounding Paine Field and these transportation policies that are directly on point, there is incontrovertible evidence that significant land use compatibility issues exist that must be addressed in an EIS and mitigated.

Conclusion: FAA Order requires full EIS

Pursuant to FAA Order 1050-1E:

"202a. The responsible FAA official should initially review whether the proposed action:

- (1)** Could significantly affect the quality of the human environment, for example, with respect to noise, land, air, water, wildlife, energy supply and natural resources, or cultural, historic or archeological resources;
- (2)** Would be located in wetlands, floodplains, coastal zones, prime or important farmlands, habitat of Federally listed endangered, threatened, or other protected species, wild and scenic river areas, areas protected under section 4(f) of the DOT Act, or in or adjacent to minority or low income populations; or
- (3)** Would be highly controversial on environmental grounds (40 CFR 1508.27(b)(4))."

The FAA knew, through its ongoing observations at the MRD review meetings in 2005-2006, of the significant effects of scheduled air service on the human environment and that this action would be highly controversial on environmental grounds.

"201d. If the EA indicates the proposed action's impacts would meet or exceed a significance threshold(s) for the affected resource(s), or that mitigation would not reduce the significant impact(s) below the applicable threshold(s), FAA must prepare an EIS."

Please respond:

1. Why did the consultant fail to address the MRD and subsequent 33 years of residential development surrounding Paine Field?
2. The scope of the EA fails to address the proposed new airline activity out of Paine Field. How would airline activity, based on Paine Field's full capacity as allowed under federal law, be compatible with the land use policies of Snohomish County and its surrounding cities over the past 33 years?
3. What impacts would this have?

4. How would such impacts be mitigated for the home-owners, schools, churches, hospitals and other related facilities that both surround Paine Field and are under the proposed flight paths of the airport at full capacity?
5. How does the FAA plan to pay for the substantial mitigation costs needed for the affected communities throughout Snohomish County?

Noise and Compatible Land Use

The Draft EA does not include the maximum amount of flight activity and therefore fails to fully assess the noise impacts. Furthermore, the 65 DNL threshold has a number of flaws, as the FAA is well aware.

Noise is a huge concern and the FAA should be required to assess the maximum activity level associated with a change in the airport's role from a Class IV to a Class I airport with scheduled airline activity.

Please respond:

1. How would the 65 DNL noise contours change based on unconstrained maximum capacity at Paine Field?
2. How would they change based on frequent nighttime flights?
3. How would such noise be mitigated?
4. How will the FAA, the County or the airlines pay for such mitigation?

Socioeconomic Environment, Environmental Justice, and Children's Environmental Health and Safety Risks

Studies show the impact on airports affect the learning environment. One significant study stated, "Our findings indicate that a chronic environmental stressor-aircraft noise could impair cognitive development in children, specifically reading comprehension. Schools exposed to high levels of aircraft noise are not healthy educational environments."²⁶

Another study states, "The constant roar from jet aircraft can seriously affect the health and psychological well-being of children, according to a new Cornell University study. The health problems resulting from chronic airport noise, including higher blood

²⁶ Aircraft and road traffic noise and children's cognition and health: a cross-national study", SA Stansfeld; B Berglund C Clark; I Lopex-Barrio, et al., The Lancet Jun 4-June 10, 2005; 365, 9475 Discovery pg 1942

pressure and boosted levels of stress hormones, the researchers say, may have lifelong effects. ²⁷

The limited scope of the draft EA underestimates the impacts to the socioeconomic environment. A proper scope, based on full capacity of Paine Field, is needed to conduct this analysis.

Social impacts to surrounding communities have not been adequately addressed and subsequently provide further proof that an EIS is warranted. Among these concerns, are airport impacts that will adversely affect those residing in close proximity to increased airport operations, such as residents in a nearby mental health facility, Snohomish County Evaluation/Treatment Facility on the Mukilteo Speedway. Residents there are most vulnerable and unable to relocate due to the nature of the facility. Moreover, the EA fails to consider impacts on local residents most vulnerable to noise and pollution - the elderly, immuno-suppressed persons with cardiovascular and pulmonary health issues who may not be physically able to relocate. While increases in social service costs are difficult to measure, sadly health risks are measurable such as increased hypertension, cardiovascular disease, cancer and leukemia.

Please respond:

1. How did the EA address these important impacts?
2. Why does the FAA find disregarding these impacts to be compliant with the intent, spirit and purpose of NEPA?

Impacts on Schools Must Include All Scheduled Service Activity Impacts

The statement in the Draft EA that no residences or schools are within the project area indicates a thought process and approach that misses the point. This is not just about the construction of a terminal. The FAA, the County and Airport Officials and the airlines are well aware that the major concerns are about the activities associated with starting up and expanding scheduled service. Impact to schools, children, playgrounds, hospitals, residents and the communities at large are not restricted to the construction and existence of a terminal building since they are also exposed to the over-flights (flight paths) of inbound and outbound flights. Listing a technical school and one grade school in the entire Draft EA is absolutely inadequate and unacceptable. Impacts are not

²⁷ Cornell University News Service (1998, March 6). Airport Noise Can Seriously Affect The Health And Psychological Well-Being Of Children. *ScienceDaily*. Retrieved March 29, 2009, from <http://www.sciencedaily.com/releases/1998/03/980306043455.htm>

restricted to the terminal construction or the day/night noise line that “averages” noise over a 24-hour period.

Please respond:

1. What are the impacts to schools from noise, pollution, and impacts to the learning environment, based on full operational capacity of the airport (with two terminals)?
2. Is the FAA aware of the number of schools near Paine Field and/or those schools likely impacted by over-flights (those in the flight path)? *See map, below.*

Failure to comply with E.O. 13045 to assess all impacts to children

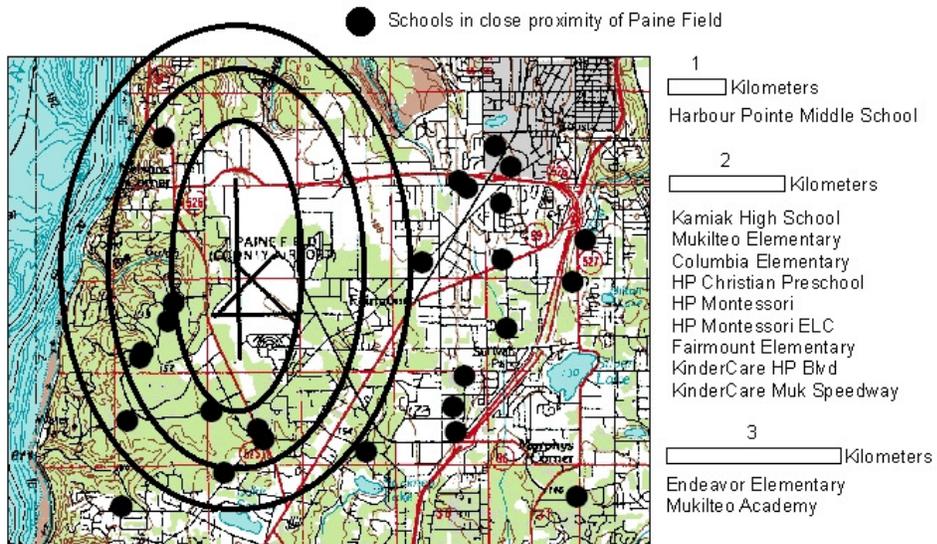
Requirements to fully consider all impacts to children alone should have driven a rigorous analysis of this issue and not of just a few flights but the maximum level.

Please respond:

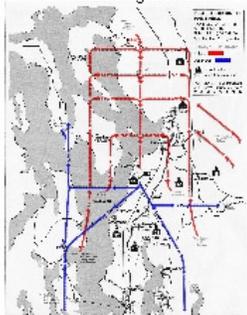
1. Shouldn't a rigorous analysis based on a role change of the airport from Class IV to Class I at full capacity, include more than just noise but also air emissions, traffic, disruptions to learning, health impacts to children and so on?
2. Why isn't the Executive Order 13045 referenced in the Draft EA adhered to and not dismissed because schools are not in the “project area”? What about schools located under the flight paths, subject to noise, pollution and other environmental impacts due to the change of Paine Field from a Class IV to a Class I airport? Schools that are not in the project area are still subject to analysis, since the proposal includes a change in the role of an airport to a Class I status.

SCHOOLS IMPACTED BY SCHEDULED SERVICE AT PAINE FIELD

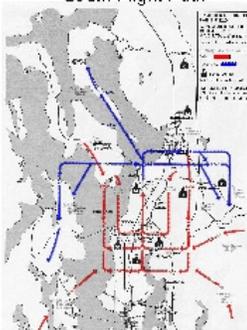
There are more than 130 public and private schools in the flight path



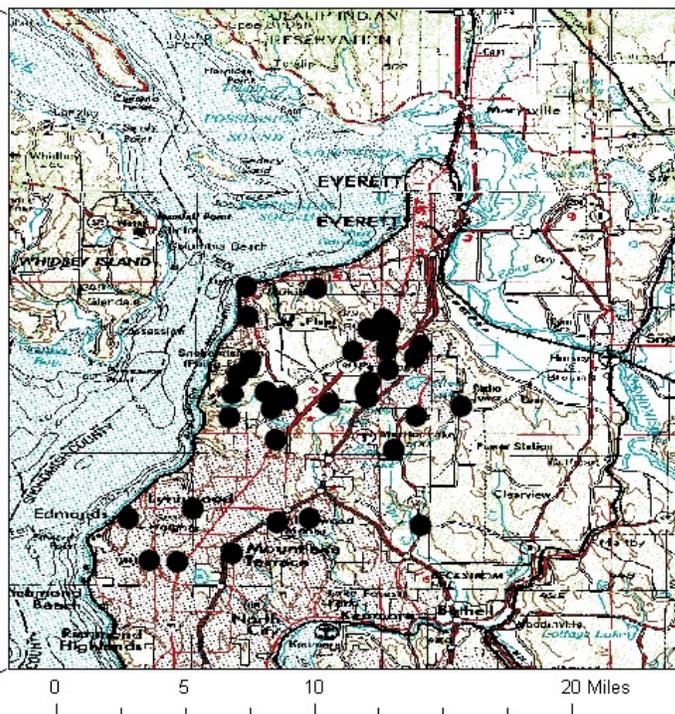
North Flight Path



South Flight Path



● Schools under flight path of Paine Field



Impacts on the Human Environment – Downward Spiral

Lower property values lead to less tax revenue and less service and safety with more crime and downward spiral for impacted communities. The EA does not provide documentation for property value reduction. Conservative estimates suggest a low figure of 10% and in a 1997 professional analysis to the Orange County Board of Supervisors, Randall Bell, MAI, Certified General Real Estate Professional and Instructor for the Appraisal Institute indicated that homes with higher valuations experienced higher diminutions, up to 27% surrounding Orange County Airport.²⁸ These results translate to lower tax bases for county, cities, hospital and school districts and a downward spiral.

Please respond:

1. Why didn't the EA include an assessment of impacts on the entire human environment?

Surface Transportation

The scope of the traffic analysis in the draft EA is extremely limited, estimating a maximum of 23 daily flights in the year 2016. However, Horizon and Allegiant will not be limited to the flights analyzed but rather by the capacity of the terminal(s), runway, aircraft and service routes. The draft EA suggests that no additional studies or mitigation will be required for these airlines to expand the services in their proposal. We note that although the EA uses Horizon's estimate of flight and passenger levels, the consultant could not agree with the Horizon estimate of passengers per car that would have reduced estimated car trips by 66%.

The traffic analysis in the EA as sent to Lorena Eng, WSDOT NW Regional administrator, presupposes that the maximum impact of allowing unlimited commercial air service by Horizon and Allegiant will only be 956 daily vehicle trips assuming 1.5 to 2.4 people per vehicle all based on a limited number of flights. Using these minimal volumes, of the 15 intersections Ms. Eng requested Snohomish County analyze, only 7 intersections realized 10 or more peak-hour trips. The other 8 did not receive more than 10 peak hour trips and thus were not analyzed. In addition, several critical intersections and interchanges that lead from I-5 to the airport such as I-5/I-405/SR 525 Swamp Creek Interchange, SR 525 and Lincoln Way, the SR 525 arterial were not studied because the analysis shows they would not receive more than 10 peak hour trips. These potentially significantly under-estimated volumes will also underestimate the severity of impacts to I-5, SR 525, the I-5 / 128th Street interchange and 128th Street (SR 96) from I-5 to Paine

²⁸ 1994, Booz-Allen & Hamilton, *The Effect of Airport Noise on Housing Values: A Summary Report*

Field Airport and the SR 99/128th Street signal which already operates at Level of Service F (worst rating possible.)

Alaska/Horizon Airlines currently operates 60% of the departures from the Seattle-Tacoma International Airport. Although we believe there are many flaws with Paine Field's 2004 Mead & Hunt Report titled Passenger Core Market Analysis, airport officials and others refer to it as it provides one perspective regarding potential passenger activity levels at Paine Field as follows:

- "Snohomish County Airport/Paine Field catchment area contains approximately 28.6 percent (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." (p.19)
- "With retention of 30.0 percent of the Snohomish County Airport/Paine Field market, 1,512,463 origin and destination passengers would be generated annually." (p. 21)

The analysis purports limited trips but the proposal, once accepted, requires a change in the operating certificate of Paine Field to allow unconstrained scheduled air service with no limitations on type of aircraft, number/frequency of flights or time of day. The traffic analysis and resultant impacts need to consider the full capacity of the airport and the market before making this irreversible change to the airport and region. A capacity analysis would reveal many millions of annual passengers depending on the assumptions used regarding aircraft, load factors and so on. Using the Mead & Hunt study's estimate of 1,512,463 origin and destination passengers described above, one finds vehicle trips several fold above those described in the EA. If this number of passengers was used even at above average carpooling standards with typical drop-off and pick-up trips we arrive at an estimated one million additional vehicle trips annually. That means 2,740 new daily vehicle trips or nearly 3X more than the 956 daily trips analyzed in the Environmental Assessment.

Please respond:

1. Please justify why the allowable impacts have not been analyzed.
2. Why was the consultant off in their traffic trip estimates by a factor of 3x?
3. If Horizon or Allegiant Air increases the number of operations proposed or increases the passenger capacity of the airplanes proposed, what areas of impact would require a new study? What specifically would trigger a new study? Please cite applicable law or regulations that support this idea.
4. The EA states that impacts were correlated with trips generated at Bellingham International Airport. Please provide a table showing the flights analyzed for the proposal to allow commercial air out of Bellingham and the

actual number of flights since commercial air service has started at Bellingham International Airport (BLI).

5. Gibson's Proposed Commercial Service at Paine Field Traffic Impact Analysis states: "The project may change some travel patterns in the Puget Sound region since it is anticipated that the project may divert some vehicle trips to Paine Field from Sea-Tac International Airport and Bellingham International Airport. This change in regional travel patterns could reduce the number of vehicles at the intersections and along the arterials analyzed in this report."²⁹ Please provide data showing the number supporting the above claim showing which intersections and arterials will see reduced vehicle volumes and the number of vehicles reduced. Also, explain which arterials and intersections the vehicles will be relocating to use.
6. The EA Traffic Analysis states, "Scoping discussions were held with staff at Snohomish County, The Washington State Department of Transportation, the City of Mukilteo, and the City of Everett." Please provide letters from Jim Bloodgood, Snohomish County Traffic Engineer, Lorena Eng WSDOT NW Region Administrator, Dong Ho Chang City of Everett Traffic Engineer, and Larry Waters City of Mukilteo Public Works Director stating that they have reviewed Gibson's traffic analysis and they concur that the project description, assumptions, and analysis accurately represent the traffic impacts that are likely to be seen by allowing unlimited commercial air service at Paine Field. Please review and provide comments that the mitigation fees proposed in the EA are sufficient to cover any and all roadway impacts as a result of Horizon and Allegiant being allowed unlimited commercial flights out of Paine Field Airport.
7. When planners analyze impacts to roadway systems, they use a 20-year horizon. Why was a 20-year horizon not utilized when completing this critical traffic analysis? This represents a significant flaw in the EA that requires a fullan EIS with at least a 20-year scoping period as discussed throughout this document.
8. Please provide the data from the Institute of Transportation Engineers reference that supports the assumption of 1.5 and 2.4 persons per vehicle used in this analysis.
9. What is the person per vehicle number used for arterials as typically applied by WSDOT?

²⁹ Draft EA, Appendix F, "Proposed Commercial Service at Paine Field Traffic Impact Analysis", p. 1

10. Since commercial airport users will clearly be coming from the interchanges of I-5 and SR 526/SR 527 please explain why this interchange was not included in the traffic analysis?
11. Since commercial airport users will clearly be coming from I-5/ I-405 Swamp Creek Interchange please explain why this interchange was not included in the traffic analysis.
12. The intersection of SR 525 and Lincoln Way is known as a back up point. Explain why this intersection was not included in the traffic analysis.
13. Currently Snohomish County and WSDOT's SR 96 experience extreme back ups and delays on 128th Street (SR 96) between SR 99 and I-5. Please explain how these impacts will be addressed and mitigated, using a 20-year time frame.
14. The Traffic Analysis states that the intersection of SR 99 and 128th (SR 96) will be at Level Of Service ("LOS") F in 2016 with or without the project. (LOS F is the worst possible LOS.) The City of Everett has identified that capacity improvements for single-occupancy vehicles to the intersection of SR 99 are not practical due to the existing lane configuration and lack of right-of-way. If this intersection is operating at LOS F how will drivers get to Paine Field Airport if this is one of the main access routes? Please list what roadways and intersections drivers will divert to in efforts to avoid this LOS F intersection.
15. The estimate of 956 vehicle trips per day based on 23 airplane operations per day does not properly assess the impact to roadways since the airlines will not be limited to 23 operations per day. Please include an assessment of the available runway capacity for commercial operations and analyze the maximum roadway impacts that would be seen.
16. The traffic analysis did not assess impacts to the arterial SR 525. Please assess the impacts to SR 525 from the Mukilteo Ferry terminal to I-5 with the assumption as allowed by this project that commercial air service is only limited by the market and runway capacity.
17. The traffic analysis did not assess the impacts during peak summer travel periods. The Washington State Ferry Service operates the largest number of ferry commuters in the State at the Mukilteo terminal. Please analyze the peak summer ferry volumes with anticipated peak summer commercial air service market capacity and determine its affects on the I-5, SR 525, SR 526 and 128th Street (SR 96) arterials and their associated intersections and interchanges.

18. The traffic analysis in the EA as sent to Lorena Eng, WSDOT NW Regional Administrator, analyses the maximum impact of allowing unlimited commercial air service by Horizon and Allegiant as being 956 daily vehicle trips assuming from 1.5 to 2.4 people per vehicle. With these minimal volumes, out of the 15 intersections Ms. Eng requested Snohomish County analyze only 7 realized 10 or more peak-hour trips. The other 8 did not receive more than 10 peak hour trips and were not analyzed. In addition, several critical intersections and interchanges that lead from I-5 to the airport such as I-5/I405/SR 525 Swamp Creek Interchange, SR 525 and Lincoln Way, the SR 525 arterial was not analysed because the analysis shows it will not receive more than 10 peak hour trips. These under-estimated impacts will have severe impacts to I-5, SR 525, the I-5 / 128th Street interchange and 128th Street (SR 96) from I-5 to Paine Field Airport and the SR 99/128th Street signal, which is already operating at Level Of Service F. If the analysis included over half a million trips as supported by the Paine Field 2004 Mead & Hunter report titled "Passenger Core market Analysis" what would be the impact to the 15 intersection analysis requested by WSDOT's NW Regional Administrator Lorena Eng?
19. The intersection of SR 526 and Everett Mall Way is not considered in the traffic analysis. Since this is the first intersection from I-5 to the airport from the North this should have been assessed. Please provide the currently LOS at this intersection during the PM peak.
20. The analysis states, "The project will, however, add trips to three intersections that are anticipated to operate at deficient levels of service, whether or not the proposed project is implemented. These intersections are SR 99 at Airport Road and the I-5 southbound and northbound ramps at 128th Street SW (SR 96). The traffic report only analyzes the southbound on ramp to I-5 at 128th but does not detail any analysis of the I-5 northbound ramps at 128th Street SW. Please add this analysis to the report based on full capacity at Paine Field.
21. If the carriers are not limited to the flights proposed, why are the FAA, Snohomish County, WSDOT, and Everett not demanding mitigation fees for the fully allowable impacts?
22. The traffic report states that, "Based on the trip generation and identified codes the total traffic mitigation fees identified in this report for payment to Snohomish County, WSDOT and the City of Mukilteo for the project is \$333,262. The Snohomish County mitigation fees are \$206,161.40, the WSDOT mitigation fees are \$32,695.20 and the City of Mukilteo mitigation

fees are \$94,406.25." Please provide letters from the agency officials stating that they concur with the above mitigation fee for the resultant impact.

23. Please provide comments from the City of Everett traffic engineer stating he agrees with the assessment that Everett will expect no traffic mitigation fees for the impact of commercial air service at Paine Field.
24. The traffic analysis assumption that 2% of the people flying on the commercial airlines will be arriving by bicycle allows Horizon and Allegiant to reduce their mitigation fees by 5%. Please provide your data source for the assumption that 2% of the commercial air travelers arrive by bicycle.
25. Please detail the back up for the assumption that only 34 employees will be needed to support commercial air service at Paine Field.
26. Please provide the compounded annual growth rate, the 5-year growth rate, the lane saturation volume and the flow rate used in this analysis.
27. Airport users will likely travel on Beverly Park Edmonds road west of SR 525. What volume of additional vehicles added by potential commercial air service would require arterial or intersection improvements on this section of Beverly Park road?
28. Page 12 of the traffic analysis states, "ITE's data shows that there would be 6.9 peak-hour trips per light." This is low for planes that carry from 76 to 150 passengers. Please explain.
29. Page 13 of the traffic analysis states "48 % of the trips will come from Beverly Park Road, SR 99, SR 525 and I-5, SR 527 and 35th Ave SE." Please analyze the route from these facilities to the airport. Please provide analysis from I-5 to SR 525 through Swamp Creek interchange, SR 99 and Lincoln Way. Please provide analysis of the SR 527/ SR 526/I-5 interchange. This should be done as part of an EIS.
30. Please propose a solution to the LOS F intersection at SR 99 and Airport Road since it will be an impact to Boeing commuters, Boeing suppliers, airport users, local residents and local businesses.
31. Page 47 of the traffic analysis states, " The intersection of SR 525 and Beverly Park Road is programmed to be improved to allow the existing second southbound left-turn and second westbound left-turn lanes to be opened up to traffic." It states that these, not currently completed improvements, have been assumed to be completed in the airport traffic analysis. Please comment on the anticipated impacts to traffic and SR 525 as a result of SR

525 southbound to northbound u-turn movement will be eliminated by the opening of the second left turn lane.

32. Why are the growth rates used for the traffic study inconsistent? Page 16 states that a 2% annually compounded growth rate was used for 2010 turning movements. Page 18 states that where pipeline data was not available, .5% annually compounding growth rate was used along 84th street. What is the annual growth rate for the ferry traffic using 84th Street? The report also uses growth rates of .53%, .93%, and 1.78%. Please explain these inconsistencies. How does this correlate with the anticipated growth rate of commercial air service at Paine Field over the next 20 years? Note again that Allegiant's prospective growth rate of flights is 500% in the next 5 years.
33. What is the number of passengers that are reasonably expected to fly out of Paine Field over the next 20 years based on the latest market studies?
34. Does the Airport Master Plan estimate additional trip generators in future years based on its master plan expansion? What are the numbers of trips anticipated each year through 2020?
35. How have the effects of reduced vehicle speeds and increased idling time been accounted for in the noise and air impacts? Has there been an analysis to evaluate the need for noise walls based on increased vehicle volume and the potential need for future roadway improvements?
36. The EA states that trips will be generated from drivers on SR 99. Please evaluate the potential impacts of commercial airport trips at the intersection of SR 99 and 148th.
37. Please provide the date for the installation of the signal at the intersection of Center Road and Beverly Park Road, which was assumed as operational for this analysis.
38. Has the full traffic volumes generated at build-out from Korry Manufacturing been included in the commercial airport traffic analysis?
39. Table 9 has not included the analysis of the 128th Street SW at I-5 Northbound ramps as it purports in the executive summary. Please provide this analysis.
40. The analysis of intersection #4 Beverly Park Road and SR 525 presents a maximum peak hour increase of 4 through vehicles and 9 turning vehicles. The analysis states that the project will generate 212 vehicle trips and 40% of

these trips will take Beverly Park Road. Please explain why the intersection analysis does not show 40% of the peak hour vehicle trips.

41. We are requesting the WSDOT perform an independent traffic analysis to assess the impacts of commercial air service at Paine Field. The analysis bears review as the increase in overall traffic volumes at the intersection of SR 525 and Beverly Park Edmonds Road from 2010 without the project to 2016 with the project only increases turn movements by 1 to 81 and through movements by 18 to 110.
42. On page 41 of the traffic analysis it states that arterial flow rates will be 10.3 mph in 2016 with project conditions. What will the travel time be from I-5? What will the travel time be from 128th Street interchange to Paine Field Airport during the PM peak in 2016 with the project? Also, what will be the reverse travel time from the airport to I-5 during this same time period? Has the increased car volume and idling time been accounted for in the noise and air study?
43. STAYBRIDGE Suites in Mukilteo at the intersection of SR 525 and Paine Field Blvd paid the WSDOT \$140,000 in roadway mitigation fees. Please explain how a hotel can be required to pay this amount with commercial airport expansion generating only \$32,000 in mitigation fees to WSDOT.
44. Please list the High Accident Location intersections on SR 525, SR 99, SR 96 and Beverly Park Edmonds Road that are included in the 2007 WSDOT publication. Please discuss what level of traffic volume increases would require improvements at these locations.
45. The forecast reports in Appendix G shows aviation growth rates at Paine Field from the 23 daily operations proposed to be a 7.3 % increase in 2010 with a 9.9% increase in 2016. If commercial growth rates are 9.0% how can roadway growth rates be 0.5%?
46. If the airlines have the ability to increase flights and airplane size at any time, how will mitigation for the increase be analyzed and paid?
47. Appendix I contains the Proposed Commercial Service at Paine Field Vehicles Miles Traveled Analysis. Page 4 states that the catchment area has a radius of approximately 30 miles. The traffic analysis in Appendix F is flawed in that it does not analyze the impacts to the catchment area. Please explain why traffic impacts to the catchment area were not analyzed.
48. The Central Puget Sound Region Designated Maintenance Areas are included in Appendix I. Please comment on how air quality due to increased traffic

volumes and increase airplane volumes impact the Catchment area as defined in the Mead & Hunt Passenger Core Market Analysis.

Parking

Once again, the analysis failed to include the maximum activity levels instead relying on Horizon and Allegiant Airlines estimates regarding the number of flights and Snohomish County Airport (PAE), the applicant, to provide the parking space counts. Even the consultant disagreed with Horizon's estimate of passengers per car that would have reduced estimated parking demand by some 66 percent. The DEA states "Based on Snohomish County Code requirements, there is sufficient existing on-airport surface parking available to accommodate the parking requirements of a building this size and thus, no additional parking is required."³⁰ It is not the size of a building but the type of business that drives the need for parking. PAE has less than 300 parking spaces adjacent to the proposed terminal. Using the data from the DEA, assuming between 1.5 – 2.4 passengers/vehicle³¹ there would be a daily need for between 187 – 299 parking spaces, not including the 34 new employees³². It is not difficult to assert that many of these vehicles would be consuming a space for a couple of days. Consider that constriction within the context that the average daily trips to-and-from the airport could be understated by a factor of 3X³³ and you will quickly conclude that available parking is not "sufficient" and that the FAA failed to assess the impacts from this obvious deficiency.

Cumulative Impacts

The EPA defines "Cumulative Impacts" as follows:

"Cumulative Impacts - The impact on the environment that 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 actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over time. See 40 C.F.R. § 1508.7."

Requirements to assess cumulative impacts have not been met. The flawed minimal scope significantly understates the impacts associated with the contemplated federal actions. Cumulative impacts are to be based on reasonably assessing the cumulative impacts of potential and foreseeable actions. The 5-year outlook is not reasonable. Furthermore, it defies credibility to completely dismiss the potential for other airlines coming in once the door is open.

³⁰ Draft EA page B.7

³¹ Draft EA Table 4: Total Daily Trip Generation Summary at 2016 Full Operations, Appendix F page 11

³² Ibid

³³ Paine Field 2004 Mead & Hunt Report, Passenger Core Market Analysis, pages 19 & 21

All potential and reasonably foreseeable actions need to be considered when assessing the cumulative impacts. This requirement forces FAA to look beyond the Horizon and Allegiant forecasts of a few flights a day and instead look at the expected and potential growth that is possible. If the FAA, low cost airlines and Paine Field are successful in obtaining significant taxpayer subsidies and in avoiding the legal and public pressures associated with this process then it is completely reasonable to assume that the cost of doing business at Paine Field will be cheaper than alternate airports including SeaTac. That means it is also reasonable to assume that some level of flight demand will shift to Paine Field. Further, it is reasonable to assume that some airlines will move to protect their turf and will demand the same “deal” the first airlines received.

It is therefore reasonably foreseeable to envision the last remaining constraint, other than Boeing complaining, to be the safe capacity of the airport. This will then be the final “cumulative impact” level. Since this final cumulative impact level is tied to the federal actions being assessed in this EA, it is both prudent and reasonable for the public to demand and for NEPA to require the honesty and transparency of a fully comprehensive cumulative impact assessment. This EA has not provided that. A legitimately scoped EIS can provide that and thus we demand a comprehensive EIS with full public involvement.

Please respond:

1. Why are the above cumulative impacts not considered?
2. Does the 5-year timeline limit the cumulative impact assessment? What would cumulative impacts look like over a more reasonable timeframe, such as 20 years? 30 years?
3. Please provide the citation, documentation, rationale and precedence for defining potential, reasonable and foreseeable as they relate to NEPA scope requirements.

SOC's Overall Conclusions

First, the FAA engaged in coercion of Snohomish County to sway a vote by the County Council in favor of terminal construction. The FAA pre-empted its own rules and, by forcing that vote, created the basis to start the EA. Although internal FAA communications demonstrate restraint and a commitment to a more fair process by most, there are others in the FAA seemingly committed to getting airlines into Paine Field no matter what the cost to the public.

We recommend an independent agency, such as the GAO, immediately initiate 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.

The FAA's overzealous drive 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.

In view of these findings, the EA should be negated in favor of a properly scoped Environmental Impact Statement. The County Council's vote was coerced, so the entire process leading up to such coercion should be reviewed with the Council having the opportunity to reconsider its vote.

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 within FAA's legal requirements includes the County's stated policy to "insist that an airline pay its own way and mitigate its impacts." (MRD Report May 16, 2007.)

In support of the County's freedom to act without coercion, we specifically request that the FAA demonstrate clearly to the County that discretionary funds are, in fact, not jeopardized by any action that the County takes, or does not take, with respect to funding a terminal, and that the County fully complies with FAA rules whether or not the County chooses to subsidize terminal construction. The FAA must take whatever other steps necessary to reverse the poisonous atmosphere it created by its coercive actions.

Secondly, we believe the EA is fatally flawed based on its scope. We ask that if actions proceed to change Paine Field from a Class IV to a Class I airport that an EIS be conducted with a scope based on full capacity of the airport and full impacts and mitigation accounted for. The FAA rules on economic non-discrimination do not allow for local restrictions other than those that are safety related. That means no restrictions

on the number, frequency or time of day. The potential activity levels associated with changing the role of the airport 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 based on airline intentions hardly gets at this larger picture. Sea-Tac's 3rd runway analysis was not based on a few daily flights so it is reasonable to expect opening another "new" scheduled service runway/airport in the region would get no less of an analysis.

We specifically request the following:

1. The FAA should immediately order a new Environmental Impact Statement with the inclusion of both new terminals and their REAL maximum capacity.
2. The FAA should conduct the scoping process properly, inviting all governmental and non-governmental interested parties.
3. The impacts of two large terminals in operation 24 hours a day seven days a week must be studied.
4. 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.
5. We urge the FAA to reject a flawed minimal assessment that concludes there are no significant impacts in changing the role of Paine Field. The system should not allow incremental "approvals" that, by design, circumvent requirements to mitigate impacts beyond certain thresholds.
6. We 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.
7. We 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.

Finally, we provided comments outlining 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 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 an

unacceptable social, economic, and environmental liability to the taxpayers and municipalities of Snohomish County.

Enclosures

1. FAA letter to SOC dtd Dec 12, 2005
2. Letter from Congressman Jay Inslee to Ms. Carol Suomi
3. Mediated Role Determination, 1978/79
4. Letter from 6 Mayors to County Executive