

Rief, Bridget

From: vp [vp@mn.rr.com]
Sent: Tuesday, August 17, 2004 2:50 PM
To: brief@mspmacc.org
Subject: Fw: FEIS Respose From Zero Expansion
Importance: High

Hello to all,

It has come to my attention that this entire response was credited to Laura Neuman. Just for clarification purposes: this response is from me, Vicki Pellar Price, on behalf of Zero Expansion, with some sections credited to Laura Neuman as the author. As you can see the document is headed and culminated with a caption including my name and contact information.

Thankyou,

Vicki Pellar Price

----- Original Message -----

From: vp
To: brief@mspmacc.org
Sent: Monday, August 16, 2004 7:06 PM
Subject: Fw: FEIS Respose From Zero Expansion

----- Original Message -----

From: vp
To: tim.pawlenty@state.mn.us ; [Erik Paulsen](mailto:Erik.Paulsen) ; GSchmidt@mspmacc.org ; Jon.larsen@state.mn.us
Sent: Monday, August 16, 2004 7:00 PM
Subject: RE: FEIS Respose From Zero Expansion

Final FEIS Response From Zero Expansion
A non-partisan group of Eden Prairie Residents
Vicki Pellar Price for Zero Expansion
952-937-6288
vp@mn.rr.com

RE: Expansion of FCM
Final Response to the EIS
Vicki Pellar Price for Zero Expansion
August 17, 2004
Eden Prairie, MN

John Larsen- EQB- Jon.larsen@state.mn.us
Gary Schmidt- MAC- GSchmidt@mspmacc.org
Erik Paulsen- Eden Prairie Representative rep.erik.paulsen@house.mn
Tim Pawlenty- Minnesota Governor tim.pawlenty@state.mn.us

Alternatives, page 55 FEIS

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MAC has shown a blind-eye, a total unwillingness to acknowledge the existence of less costly alternative 5,000 ft runways which already exist at St Paul Holman Field and MSP; both are in close proximity and could be utilized without an \$82.9M price tag. MAC also has plans to expand a runway at Anoka to 5,000 ft. for a considerably lower price tag. That's three 5,000ft runways for business and recreational aviation.

Benefit Cost Analysis, page 58 FEIS

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Despite the obvious availability of alternatives, MAC continues to propose a fiscally reckless expansion with a cumulative cost of \$82.9M as compared to \$49.7M in the Draft EIS, and \$60.5M in the Supplemental EIS.

MAC's response in the FEIS is insufficient and faulty. Their response is that the cumulative cost is \$60.5 million in 1999 dollars, it's obvious that the downtrend in annual operations at FCM, a national down trend in recreational flyers, security issues, and the high cost of oil, and rate increases which are unpalatable to users, make the expansion absolutely fiscally and practically imprudent.

The cost of the expansion will ultimately come out of the pockets of ticket-buyers and residents who subsidize the relievers in ticket prices, concessions, parking, taxes and fees at MSP, because the small number of actual users of the reliever airports

Cumulative Impacts, page 57-8 FEIS

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The air-quality impact of the proposed expansion is up and now exceeds 100tons/yr of CO emissions based on the Proposed Action, requiring a general conformity determination.

"The general public may not know it, but it is an undisputed fact known by EPA, MPCA, FAA, and MAC that aircraft burning fossil fuels emit toxic chemicals that cause cancerous and non-cancerous health problems. MAC has failed to identify, quantify and address toxic emissions in its environmental review. MAC has repeatedly ignored our requests.

In the June 2004 FEIS, FAA very carefully and deceptively in one paragraph answers the issue on toxic emissions on page 42-43 of Volume II. If you are not familiar with chemistry and environmental laws, FAA's answer seems to state that it has no obligation to report toxic emissions from aircraft under NEPA and MEPA and that the emissions do not exist.

Let me make it clear, the emissions *do* exist and FAA *is* obligated under NEPA and MEPA to disclose them. FAA is fully aware that aircraft emit toxic emissions and has known it for a long time. Various government agencies and universities have been researching this subject for years. Nowhere in NEPA or MEPA does it restrict FAA's evaluation of air quality to those items identified in the Clean Air Act (CAA), as FAA implies in its answer. One year ago, FAA printed a document entitled "Select Resource Materials and Annotated Bibliography on the Topic of Hazardous Air Pollutants (HAPS) Associated with Aircraft, Airports, and Aviation" dated July 2003. **In this document FAA admits that environmental assessments of toxic emissions have taken place at other airports.** How can MAC and FAA continue to ignore requests for toxic emission information at our airports?

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Specifically, the concentrations of toxic aircraft emissions for an airport can be calculated by taking the known amounts of hydrocarbon exhaust specific to each type of aircraft, multiplied by the number of operations of that type of aircraft, breaking the hydrocarbon exhaust down into the specific toxic chemicals, and using a sophisticated model to calculate concentrations of those individual toxic chemicals. **The calculation of specific toxic chemicals from aircraft emissions is being done at other airports and should be done at Flying Cloud and MSP too.**

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In the FEIS, FAA tries to downplay toxic emissions by stating that actual air monitoring placed on the ground at runways at various airports has found toxic chemical levels to be the same as background levels for the urban areas. But FAA omits in its answer the logical and scientific explanation: the high heat of the exhaust coming out of the plane causes the toxic plume to rise above the ground where the monitors aren't located. FAA itself came out with a "Final Report: The Use of LIDAR to Characterize Aircraft Initial Plume Characteristics" in February 2004 showing how aircraft exhaust plumes rise. This does not mean that the toxic chemicals disappear, only that they rise away from monitoring devices on the runways and then eventually drift back down.

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Toxic emissions from aircraft are not some theory that only environmentalists and tree huggers have invented and are concerned about. In my research on the subject of toxic aircraft emissions I have spoken to various experts at EPA, MPCA, and California agencies. Believe me, it is a *real* issue that doesn't go away just because MAC and FAA choose to ignore it in Minnesota. Air quality affects us all, especially children. The following information should scare you into wanting to stop this unnecessary airport expansion.

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These are the toxic chemicals that come out of aircraft exhaust according to EPA:

- 1,3-Butadiene
- Acetaldehyde
- Acrolein
- Benzene
- Ethylbenzene
- Formaldehyde
- nHexane

- Xylene
- Propionaldehyde
- Styrene
- Toulene
- Lead
- Polycyclic Organic Matter (POM)

114 EPA's National-Scale Air Toxics Assessment used computer models from emission information in each state and determined that in Minnesota, 1,3-butadiene, acrolein, benzene, formaldehyde, and POM were at levels in excess of health benchmarks (the levels above which are thought to cause adverse health effects in *adults*). Recent monitoring measurements taken by MPCA in Minnesota confirm that formaldehyde and benzene in our air are in excess of health benchmarks. MPCA did not monitor POMs and is unable to measure relevant amounts of 1,3-butadiene and acrolein in the air given limitations on the monitoring equipment. MPCA also has not yet calculated the measurements for airborne lead. See MPCA's "Air Toxics Monitoring in the Twin Cities" dated January 2003."

What does this mean? It means that many of the toxic chemicals found in aircraft exhaust are *already* at high enough levels in our state to cause adverse health effects in adults. For children in our state, it is a much graver picture. Because children breathe more frequently and eat and drink more compared to their sizes than adults, and because a lot of children's systems are still developing, EPA and California agencies are re-evaluating health benchmarks for children. They have identified adverse health effects from toxic chemicals at significantly lower levels than adult levels. These lower, child-health benchmarks include studies on benzene, lead, acrolein, POM, and formaldehyde-- the very chemicals that are found in aircraft emissions. See for yourself the alarming health impacts these toxic chemicals have on children at the following website, http://www.oehha.ca.gov/air/toxic_contaminants/SB25finalreport.htm.

115 Toxic aircraft emissions *do* exist and it is clear that NEPA and MEPA require an evaluation of the air quality impact, especially given that the baseline in Minnesota, before any proposed expansion at Flying Cloud, is already at levels that impact health. Yes, it's true that other combustion engines like motor vehicles emit toxic chemicals too, but that doesn't mean you ignore the aviation source. The purpose of NEPA and MEPA is to gather information to enable us to make informed decisions about choices between transportation and air quality. We deserve to know the truth about air quality and the impacts from proposed transportation.

Why hasn't FAA and MAC given us information on aircraft toxic emissions for the expansion at Flying Cloud and MSP? (MSP emissions should be included because of cumulative impacts.) This time I can't justify the evasion of the answer with a claim that MAC and FAA are recklessly ignorant. Given FAA's own documents and the fact that toxic emissions are evaluated at other airports, MAC and FAA are being deceptive."

Laura Neuman, Eden Prairie Resident, former member of the Flying Cloud Airport Commission.

Purpose and Need, page 52 FEIS

116 According to the FAA, MAC's projections for use at an expanded FCM are overestimated by 49%. FAA forecasts for 2010 indicate 203,486 operations, while MAC's forecasts indicate 302,982, 49% higher than the FAA. MAC continues to justify what the FAA and GAO have already negated, that in order to divert traffic away from MSP they need longer runways to accommodate those types of planes (heavier). MAC appears to be making a whole new case to support the new FAA rulemaking which doesn't allow pavement weight based restrictions, which were part of the agreement between the city and MAC, before this new rulemaking.

MAC continues to misrepresent need as exemplified on their web site by stating that relievers relieve congestion and delays at MSP, by diverting traffic away from MSP.

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Both the GAO and FAA have stated that congestion and delays at major hubs are not attributable to General Aviation. Instead delays and congestion are caused by: predatory business practices, overbooking, weather, airport mismanagement, and hub system insufficiencies. Most analysts agree that the relevance and importance of relievers has changed, so its current use in the overall system is generally overstated.

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NWA's Reliever Seminar report from April 29th, 2004 states that "the decision to expand FCM was made in 1992 based upon forecasts completed in 1987. However, FCM operations peaked in 1976 and have trended downward since. More recently FCM operations have declined an average of 4.4% each year since 1998.

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Northwest cites a 1994 US General Accounting Office (GAO) Report that said in part:

"FAA does not consider general aviation to be a significant factor in congestion at commercial airports today."

"FAA's analysis showed . . . [g]eneral aviation was not identified as a major cause of delay."

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"Although congestion caused by general aviation at commercial airports was a consideration when the reliever program was established, it has largely ceased to be one now."

Northwest continued by demonstrating how MAC could use financial incentives, not expansion, to induce greater use of the reliever airports, even if MAC increased rates to make the relievers more economically self sufficient.

By MAC's own omission the relievers need a new business model because they are not self sufficient, and some may even need to be closed, and most are still dependant on subsidies, unlike other relievers nationally. Reliever Seminar meetings have shown that organizations like the AOPA and individual users are unwilling to accept rate hikes in order to make the airports more self sustaining.

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Stopovers as a rationale for expansion?

Even assuming MAC's new number of 2,500 stopovers at MSP a year is correct, that is only 0.5% of total operations at MSP! Obviously stopovers from Flying Cloud are NOT causing congestion at MSP. Is it worth millions of dollars to eliminate 0.5% of operations at MSP? Also, remember the two FBOs, Elliot Aviation and Executive Aviation, state that their stopovers have *not* increased in 7 years. Then why do they need an expansion in the first place? MAC has *never* been able to demonstrate congestion at MSP from general aviation. Even its biggest tenant at MSP, Northwest Airlines, says there is no congestion from general aviation. Northwest Airlines would know! Northwest wants the Flying Cloud expansion stopped.
Laura Neuman, Eden Prairie Resident, former member of the Flying Cloud Airport Commission.

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MAC has failed utterly to present a true picture of need to the public. They have distorted every relevant piece of information in order to make their case for an expansion. Their over inflated projections regarding need and their under exaggerated assessment of costs are irresponsible and fiscally reckless.

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Fleet Mix- page 56 FEIS-

"When the City entered into negotiations with MAC, both MAC and the City *required* FAA to be involved in the process to avoid any potential problems with their settlement agreement. The City did not want a repeat of what happened with Ordinance 51—after lots of hard work to have the deal unacceptable to FAA.

Given the best MAC could do was a "voluntary" restriction on nighttime operations, it presented the 60,000 lbs weight-bearing capacity of the runway at Flying Cloud as a restriction on use. MAC heralded the 60,000 lb as a restriction preventing larger aircraft from using Flying Cloud. In the MAC/City December 2002 Agreement, MAC promises not to increase the weight capacity of the runway. In short, the 60,000 lb restriction was a big part of the deal that FAA participated in.

One and a half years later, MAC in its FEIS describes this weight restriction in its "noise mitigation" plan, and reduces predicted noise from expansion from the INM given that larger aircraft cannot use the runways. And now, FAA is calling such weight restrictions into question. In a "Proposed Policy" published in the Federal Register in July 2003, FAA says that weight capacity of the runways **cannot** entirely prohibit aircraft above those weights and **cannot** be used to mitigate noise, because doing so would be unjustly discriminatory in violation of grant assurances. This policy would affect all runways in the country, not just Flying Cloud.

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FAA printed this position in July 2003; however, FAA had already made a decision that the weight bearing capacity of a runway could *not* be used to prohibit larger aircraft from using an airport in February 2002 (just two months after the MAC/City Agreement). Given it takes FAA months to make a decision, surely FAA knew in December when the MAC/City Agreement was made, that FAA would *not* allow a restriction of aircraft based on weight capacity of the runway. FAA said nothing in December. Did MAC also know in December that such weight restrictions were suspect?

Given FAA's policy printed in July 2003, I have no doubt that because (1) MAC describes the runway weight capacity as "noise mitigation," (2) MAC reduces its over-60,000 lb aircraft in its fleet mix for the INM, and (3) MAC promises not to increase the runway strength, that FAA will determine the weight capacity cannot be used as a restriction prohibiting larger aircraft at Flying Cloud and will find it unjustly discriminatory in violation of grant assurances.

There now seems to be no guarantee that larger business jets over 60,000 lbs won't use Flying Cloud. To me, MAC's actions seem very calculated in order to achieve this result. When the City and MAC entered into the Agreement, the weight bearing capacity of the runway was in *no* way described as "noise mitigation" nor did MAC state it would reduce the fleet mix in the INM as a result of the weight capacity of the runway. In the MAC/City Agreement it simply states that an engineering study found the capacity top be 60,000 lbs and that MAC wouldn't increase it unless required by State law. Never in the previous Draft EIS or Supplement EIS did MAC discuss weight capacity as a restriction on use or noise mitigation until *after* FAA published its policy that calls it discriminatory.

Why in June 2004, after a printed FAA policy to the contrary, is MAC using the 60,000 lb weight restriction as "noise reduction"? Is MAC just recklessly ignorant or deceptive?

If FAA does find the weight capacity restriction at Flying Cloud discriminatory, the City is no longer bound to the Agreement pursuant to Section 7.2.2 because MAC breached its commitments and representations, and has breached its duty to defend the Agreement by setting up the weight capacity of the runways as an illegal restriction."

Laura Neuman- Eden Prairie Resident and Member of the former Flying Cloud Airport Commission

Security- page 58 FEIS-

This warning (below) was posted on the NBAA's web site on August 6, 2004. At no time during the public notification from the government, which was just recently, did they ever include a GA security advisory, nor was the local public who live in communities with GA airports ever given any kind of notice of this warning. So policy regarding informing the public seems to be inconsistent.

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As far as we know, a security program to be used as a model for the relievers was initiated by Eden Prairie and Minnesota's US Attorney, Tom Heflinger, and not MAC. Where does MAC's responsibility enter into the picture? What we know is there wasn't enough money for new fencing, but coming up with \$82.9M for an expansion at FCM takes priority. That's absolutely posterous.

Department of Homeland Security Issues General Aviation Security Advisory

August 6, 2004

The Department of Homeland Security (DHS) has issued a general aviation security advisory following recent interagency review of "new and unusually specific information about where Al-Qaeda would like to attack." On August 1, the U.S. Government raised the threat level to Code Orange for the New York City, Newark, NJ, and Washington, DC, areas. The August 6 advisory urged the general aviation community to be alert, citing "Al-Qaeda's continued efforts to plan multiple attacks against the United States possibly employing commercial or general aviation aircraft, including helicopters." NBAA Members should review the TSA's Security Guidelines for General Aviation Airports and NBAA's Best Practices for Business Aviation Security. Any suspicious activity should be reported immediately to the Airport Watch Hotline at (866) GA SECURE.

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Noise Mitigation- page 56 FEIS

There are three significant changes to the noise mitigation plan: Bird Strike and US Fish and Wildlife concerns have changed the impact of noise on the community. The Bird Strike potential was revised so that MAC will not designate 9R-27L as the preferred runway which will shift more training operations over populated areas. The US Fish and Wildlife has revised over flight regarding the refuge which shifts 97% of arrivals over populated areas. MAC says the current plan will eliminate a 20ft screening berm along the south hangar due to site limitations. This was planned on by the city and neighboring community.

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Final Comments-

Because the majority of respondents are residents and not paid professionals, it's impossible to include the detail necessary to form a complete response to the intended expansion. But, despite this, many have been able to research and identify some crucial and disturbing evidence which demonstrates the utter industry bravado that can push through a project whether it meets the criteria necessary to establish worthiness, credibility, compatibility or fiscal acceptability.

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Disturbing responses from critical agencies like the Metropolitan Council include some of the impacts that MAC does not address in their EIS. No reference to alternative locations, no analysis of impacts from heavier planes, the use of glycol-based deicers, the use of urea, the issues of compatible land use, increasing solid and hazardous wastes into local water, surface water quality and runoff in relationship to accidental fuel spills.

The EPA response indicates an "EC-2" rating to the SDEIS which means there are environmental concerns for the project.

The Lower Minnesota River Watershed District also identifies concern due to a lack of information MAC failed to provide regarding deicing activities, sanitary water, and storm water runoff.

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Not surprisingly, most of the support for the project comes from the aviation and business community itself, who tout business success and so-called open spaces, over any consideration, what-so-ever, related to real impacts. They demonstrate an utter lack of community consideration, and an overwhelming ignorance regarding need, and the real impacts aviation transportation has on important quality-of-life issues.

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September 16, 2004

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RE: Written comments on the FEIS

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MAC's FEIS, Final Environmental Impact Statement, fails to adequately answer the questions in regard to loss of property values. As far as I can read in the Summary of Comments on Draft EIS and Supplemental Draft EIS and Responses, the only answer given to any question about property values is General Response number 8 on page 3 of the Summary of Comments. General Response number 8 is an answer to one question from a property owner who thought they would have to sell their home for below the purchase value. General Response 8 asserts (one) that homes will not lose so much value that valuations will fall below purchase prices, and (two) figuring out loss in value is too complex for the FAA and MAC. That neatly sidesteps the issue, but it doesn't answer the questions raised over the past 20 years in regard to loss of property value.

Flying Cloud Airport is surrounded by homes valued at from \$250,000 to the multi-millions. Eden Prairie is a community of homes where values increase on a daily basis. People who purchased homes in Eden Prairie 5 years ago have seen their values double. A home purchase in Eden Prairie is an investment where people expect a payback. Answering the "Loss in Property Value" question by saying "In Minnesota it has been shown that MSP aircraft noise has not reduced property values below the purchase price" simply begs the question. In a time of rapidly increasing values, the fact that a home near an airport doesn't increase in value as quickly as a similar home situated far enough away from an airport to not experience the noise and pollution associated with aircraft, means that home has lost value.

The issue is not if loss of value in the vicinity of an airport happens. Anecdotal evidence and several studies (the studies have all been brought to the attention of MAC in the last 20 years), prove that without a doubt it happens. The issue is: what is MAC going to do about it? MAC's stated intent is to waken Flying Cloud from its General Aviation slumber by injecting it with a new 5,000-foot runway. MAC wants jets that are 2 to 3 times the size of the current jets to make Flying Cloud their home. Aviation loves longer runways. It means more aircraft, more business and best of all, the people who don't pay enough rent to keep Flying Cloud solvent will get a reduction in their aircraft insurance rates because the runways are 5,000 feet long.

What does it mean to homeowners? If MAC's plan is successful, homeowners within three miles of the airport will experience a radical increase in aircraft noise, air pollution and light pollution (the expanded airport will have a terrific lighting system). These are not items that tend to increase the value of a home.

MAC is forging ahead with their plan as if it makes no difference whatsoever that if their plan works there will be a direct, cause and effect loss in property value in Eden Prairie. That doesn't mean that people won't be able to sell their homes or that they'll have to sell them for less than they purchased them. It means they'll lose value. A home near a busy, noisy, polluting airport will be valued less than a

home outside of the airport's influence. What is MAC going to do about that? How is MAC going to address that question?

MAC is intentionally and knowingly creating a situation where, if MAC is right, thousands of homeowners will lose value in their homes -- and we are not talking about tarpaper shacks -- we're talking about expensive homes, very expensive homes.

129 To say that the problem is too complex for them to evaluate is ridiculous. These are the same people who brought us the DNL 65 and other sound measurements. They can project sound measurements using a computer simulation but they can't evaluate the loss of property value in the vicinity of an airport? The truth is they don't want to acknowledge the problem. Once they accept that there is a causal relationship between airport proximity and loss in residential value, a new precedent will be established and they will be responsible for that loss in value. In Minnesota, even a partial loss in value due to another parties actions can be claimed.

Are MAC and the State of Minnesota really ready for the problems that this expansion is sure to cause? There are probably several billions worth of real estate that a Flying Cloud expansion will impact and a lot of unhappy homeowners. Changing the status quo at the Flying Cloud Airport in order to attract more and bigger aircraft that will directly impact the value of those residential properties in the vicinity of the airport is not a good idea.

The FEIS has failed to adequately address the issue of "loss of residential property values". This issue has been brought to MAC's attention in a large variety of questions over the past 20 years and General Response 8 does not answer the question adequately.

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September 16, 2004

Final FEIS Response

MAC uses Strib editorial to support expansion logic in (FEIS) the Final Environmental Impact Statement

The Star Tribune Editorial from 2001, *Flying Cloud must take more of the load*, was rife with inaccuracies

Yet, MAC included it as evidence in the FEIS in support of the expansion at (FCM) Flying Cloud Airport.

Zero Expansion submitted a counterpoint, *Flying Cloud Already Carrying Huge Load*, to the Star Tribune's editorial, Sept 27, 2001, disputing their assertions, which was published in the paper; the published rebuke was not included in the Final EIS Statement.

The Zero Expansion counterpoint accused the Star Tribune of not checking their facts and reminded them that their own aviation beat reporter recently published numbers of operations which showed that **Flying Cloud was in fact carrying the largest load of all the relievers, even without a 5,000 ft runway.**

That MAC included the Strib editorial in the FEIS and not the counterpoint shows how industries and governments paint the picture they want you to see, which often is not the truth. **The Strib editorial is an opinion piece and its lack of factual data and supporting evidence does not provide substantive, factual corroboration for the project, which is what an FEIS should produce.**

But more than just conjecture, there are numerous inaccuracies, which are misleading and deceptive. An unknowing public would swallow these inaccuracies as truths, but they hardly represent a meaningful and factual justification for an expansion:

1. The Strib asserts that general aviation airports are more secure.

In the article, Security Is Looser on Corporate Aircraft, New York Times, Print Media Edition: Late Edition (East Coast), New York, N.Y., Oct 28, 2003, the author, Joe Sharkey tells us that though 429 airports that handle commercial flights are set up for all the security drills, this is certainly not the case for over 5,000 General Aviation airports nationally. These GA airports handle over 10,000 companies that run 15, 500 fixed wing aircraft, two seat turbo-prop and humongous heavy iron jet operations that carry 50 passengers in what are termed 'soft target' situations because "few if any of the passengers on those planes receive the preboarding security checks by federal screeners that are standard practice at commercial airports. Also because there are thousands of fractional owners today, there is little ability to oversee or check the ever-changing ownerships of thousands of planes and their ever-changing users. Very few of these users, in fact, ever pass

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through a metal detector. And officials in the industry are increasingly worried that lax or haphazard security procedures have created an opportunity for terrorists."

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Read the article which will be posted at www.zeroexpansion.com ; click on the security link (which is a chain link fence. As far as residents know, that's the only barrier between terrorists and the community. The chain link gates are open all day long.)

2. The Strib asserts that all non-commercial jet operations move away from MSP for fewer delays.

Both the GAO and FAA have stated that General Aviation is not the cause for delays at major airports.

See **NWA report, Metropolitan Airports Commission, Reliever Airport Seminar, April 29, 2004:**

Northwest cites a 1994 US General Accounting Office (GAO) Report that said in part:

"FAA does not consider general aviation to be a significant factor in congestion at commercial airports today."

"FAA's analysis showed . . . [g]eneral aviation was not identified as a major cause of delay."

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"Although congestion caused by general aviation at commercial airports was a consideration when the reliever program was established, it has largely ceased to be one now."

Reliever Airports. For many years, the AIP program included a set-aside for reliever airports. These were small airports that the FAA determined would help relieve congestion at nearby larger airports. However, GAO issued a study that found these airports were not effective in relieving congestion. As a result, the Federal Aviation Reauthorization Act of 1996 (P.L. 104-264) eliminated this set-aside.

NWA stated in their Reliever Seminar report that it's economically unattractive for small operators to use MSP now. That may not have been the case back when the Met Council mandated that the relievers relieve MSP. NWA reported that MAC has the ability to further 'incentivize' the use of the relievers through minimum landing increases at MSP. So the rationale to relieve MSP is about as old as the Met Council's reliever mandate, which needs to be overhauled.

3. The Strib asserts there is a need for more room for corporate or private jets

MAC's projections for use (at an expanded FCM) submitted to the FAA were 49% more than what the FAA projected- **FOIA city of Eden Prairie.**

Flying Cloud Airport operations have decreased annually by 4.4% - **NWA report Metropolitan Airports Commission Reliever Seminar Meeting, April 29th, 2004.**

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Even the AOPA's Phil Boyer, President of the Aircraft Owners and Pilots Association, stated that MAC should not expand the runways at FCM at the Reliever Airport Seminar in April of 2004 because rates will go up even more. Though you'll never find this on the AOPA web site, or in the minutes of that Reliever Airport Seminar meeting, he said it. MAC denies he said it. I was there and heard it. Boyer also said their surveys indicated what operators want the most and it's not an extended runway.

There are already two 5,000ft runways, at St Paul Holman Field and at MSP.

Survey of members of the AOPA-

Extend Runways 30%
Upgrade facilities- 39%
More Hangars- 64%
More Maintenance- 82%
Keep rates same- 83%

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The AOPA also suggests that MAC change the weight based pavement restriction for runways, which would allow larger, heavier planes to use the existing runways at FCM, without lengthening them. The problem with changing the weight based pavement restriction, which is supported by both the NBAA, National Business Aviation Association and the AOPA is that the city and MAC agreed to a 60,000lb limit on pavement strength.

There is new FAA rulemaking for no weight-based pavement airport access restrictions, which was proposed by the FAA after the city and MAC signed the Final Agreement. The legally binding agreement contains a MAC commitment to Eden Prairie to support a 60,000 lb pavement based weight restriction.

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Everything is a moot point now because the MAC must uphold that restriction or risk a possible law suit with the city, or the FAA could allow it, and then the AOPA would end up paying for it? Anyway you look at it, it doesn't bode well for MAC. If in fact the airport did not expand, and the runways, as is, serviced the larger planes, there could be two lawsuits, one by the city and a class-action lawsuit by Eden Prairie residents. Any way you look at it, MAC is up against it, even without NWA on their case.

4. The Strib asserts that FCM must expand to fulfill their mandate to relieve MSP.

The Met Council whose responsibility to oversee and protect land use compatibility and assurances that water quality and environmental consequences are minimized, needs to reassess reliever mandates from 50 years ago, which were based on non-jet use and no dense population centers adjacent airports; this mandate is out-of-date, and out-of-touch. The Met Council is remiss in its duties to protect the public in terms of land use compatibility which impacts security and environmental consequences.

The FAA's charter from Congress mandates that it serve two distinct functions: to oversee safety and to promote air travel. And, in fact, the vast majority of criticism leveled at the FAA in recent years is that it promotes air travel at the expense of safety.

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In the case at Santa Monica Airport, in California, one of the busiest General Aviation Airports in the nation, airport officials last year, at significant cost to themselves, implemented a ban on larger private jets because the airport had inadequate safety margins – per the FAA's own standards – and no room to increase them. The FAA responded by serving the City of Santa Monica (which operates the airport) with a Notice of Investigation, claiming that it would be unlawful to prohibit the jets from landing – even as it acknowledged the inadequate safety margins. Could this happen in Eden Prairie at Flying Cloud Airport? This does not bode well for residents in Eden Prairie.

We've come to expect that the FAA and MAC do not act in a community's best interests, but we do expect that the Met Council, whose mission is to oversee regional planning, transportation, housing, water quality and management and open spaces, would not become a bureaucratic arm

of support, a rubber stamp, for a project that has so little justification and would do so much harm to the quality-of-life in Eden Prairie.

So much for truth.

Let's see the impact it has on the Met Council, the MAC, legislators, the Minnesota Environmental Quality Board and the Governor. Let's see whether bureaucratic rubber stamping for a project unsupported by need or fiscal accountability will win out again over community quality-of-life.

Vicki Pellar Price
For Zero Expansion

Star Tribune
and
01

Flying Cloud

It must take more of the load

Even before last Tuesday, small noncommercial jet aircraft was one of the fastest-growing segments of American air traffic. It's a good bet that trend is about to accelerate. Safety worries and longer delays associated with commercial air travel could well make private jets even more the flight mode of choice for those who can afford them.

It is with that likelihood looming that a public hearing will take place at 7 p.m. Wednesday at the Hennepin Technical College auditorium in Eden Prairie. Its topic: a proposal by the Metropolitan Airports Commission (MAC) to extend the longest runway at Flying Cloud Airport and to repeal a 23-year-old commission rule, Ordinance 51, that allows only the smallest jets to use Flying Cloud.

A crowd of unhappy airport neighbors and Eden Prairie officials is expected to turn out in opposition to the MAC proposal. Who can blame them? No homeowner would welcome a larger, busier airport to the neighborhood. Enlarging Flying Cloud in the face of Ordinance 51's implicit assurance to the contrary must feel like betrayal to people who bought or built homes in the region since 1978.

The airports commission owes Eden Prairie residents a full and respectful hearing. It owes them a detailed explanation of the reasons for its proposal, and a renewed commitment to working with city officials and with the Federal Aviation Administration to mitigate the ill effects of an enlarged Flying Cloud on its neighbors.

But the commission's first duty is meeting the aviation needs of the entire metropolitan area. Those needs plainly compel greater use of Flying Cloud and the other smaller airports in the region — including those as far away as Rochester and St. Cloud. Indeed, a 1996 state law aimed at maximizing utilization of existing airport facilities requires as much.

Eden Prairie's concern about noise and disruption, however justified, cannot be allowed to block expansion indefinitely at Flying Cloud. The airports commission's plan to move all noncommercial jet operations away from Minneapolis-St. Paul International Airport took on new urgency with the events of last week. Accommodating the expected larger volume of small jets at the big airport would make for longer delays and less safety for commercial air travelers.

More room for corporate and private jets must be found at the area's reliever airports. With St. Paul's Holman Field already near maximum capacity and tiny Crystal Airport locked in by development, Flying Cloud and the Anoka County/Blaine Airport have to prepare to carry more of the load.

Eden Prairie residents may argue that last week's events toss so much uncertainty into all aviation questions that delay at Flying Cloud is warranted. But what is instead warranted is a freeing of MAC's hand to respond as needed to changing conditions. Ordinance 51 is so inflexible that it may disqualify MAC for future FAA capital improvement grants. It cannot stand.

Vicki Pellar-Price: Flying Cloud already carrying huge load

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Vicki Pellar-Price: Flying Cloud already carrying huge load

Vicki Pellar-Price

Published Sep 27 2001

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Flying Cloud Airport "must take more of the load" ([editorial, Sept. 18](#))? Doesn't the Star Tribune check its archives for facts, or do editorial writers just make them up along the way? In October 2000, your own aviation beat reporter purveyed numbers from 1999 operations, reporting that Flying Cloud carries the biggest load, 192,737, compared with all the relievers.

St. Paul's Holman Field trailed with 158,835 in 1999, indicating it's far behind Flying Cloud in diverting small jets from Minneapolis-St. Paul International Airport (MSP). Though Holman has the runway length to accommodate even larger jets, annual flooding sends many lessees to Flying Cloud every spring. Holman's proximity to MSP and the cities, along with its infrastructure and services, should make it the facility of choice, yet the Metropolitan Airports Commission (MAC) leaves Holman floating on its back with 75 percent of the property submerged every year.

Relaying safety worries as only associated with commercial operations which would "make private jets even more the flight mode of choice" is more Star Tribune fiction. Smaller airports pose more of a security risk. The reopening of major U.S. airports under antiterrorism measures belies a failure to do the same for smaller airstrips that have no security procedures.

What about the risks in smaller planes themselves, many of which allow passengers to sit right behind or next to the pilot and the controls? If proposed regulatory changes take effect in 2002, commercial fractionals, planes for hire, would get noncommercial status and be allowed to operate out of communities with small general aviation airports and zip security.

MAC's plan to move all noncommercial jets away from MSP is discriminatory and flies in the face of aviation rules. Ask U.S. Rep. Jim Oberstar of the House Transportation Committee. MAC says that it can't dictate where planes go -- no airport getting grant funding can turn away small planes -- but it sure looks as if MAC's trying.

The Star Tribune says Ordinance 51 can't stand. In answer to a lawsuit with Eden Prairie, MAC created Ordinance 51 and locked its step to the tune of a 20,000-pound weight limitation back in 1978. MAC also

Vicki Pellar-Price: Flying Cloud already carrying huge load

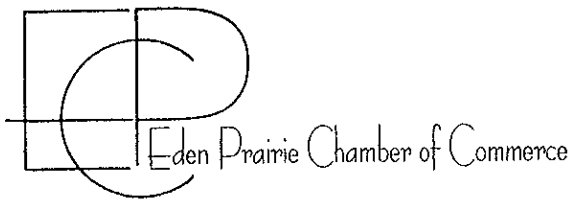
signed on to an agreement which prohibits future expansion. If MAC now finds itself in a hand-lock -- which disqualifies the commission from future capital improvement grants -- it's self-induced.

Despite the knowledge that there are serious breaches in aviation security and accountability that could also be suffered by reliever communities, MAC proceeds with expansion plans. What can't stand is the disposition of residents and communities in favor of aviation interests.

-- Vicki Pellar-Price, Eden Prairie. Spokeswoman for Zero Expansion.

[Return to top](#)

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TANFITA, TWI

August 18, 2004

Jeff Hamiel
Metropolitan Airports Commission
6040 28th Avenue South
Minneapolis, MN 55450

Dear Jeff,

At the August 12th meeting of the Eden Prairie Chamber of Commerce's Board of Directors, the Board voted unanimously in favor of the attached resolution supporting the expansion of the runways and building area at the Flying Cloud Airport. We would like to encourage the Metropolitan Airports Commission to complete the expansion in a timely manner.

As you may know, the Metropolitan Airports Commission purchased Flying Cloud Airport back in 1947. Since that time, it has serviced the needs of a growing community, a community that serves as part of an economic engine for our business climate. In fact, a recent study by the Metropolitan Airports Commission indicates that the Flying Cloud Airport is responsible for 310 on site jobs, 1,220 related jobs and contributes \$90 million to the southwest metro's economy. Furthermore, of all the reliever airports, Flying Cloud contributes the largest economic impact to our region.

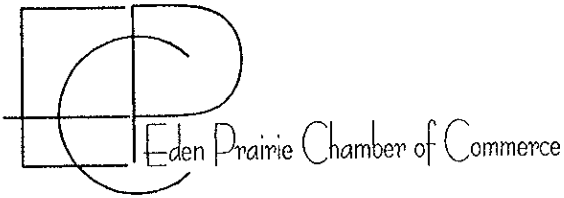
Completing the expansion at Flying Cloud Airport will continue to support the southwest metro's growing economy. If I can answer any questions, or provide any further information about the Chamber's support, please feel free to contact me at 952-944-2830.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Pat MulQueeney', is written over a horizontal line.

Pat MulQueeney, IOM
President

Enclosure



**EDEN PRAIRIE CHAMBER OF COMMERCE
FLYING CLOUD AIRPORT EXPANSION
POSITION STATEMENT**

WHEREAS, businesses are the source of jobs and economic vitality for the City of Eden Prairie, the surrounding communities and their residents, and;

WHEREAS, a recent Metropolitan Council study demonstrates that Flying Cloud Airport provides 310 on site jobs, 1,220 related jobs and contributes \$90 million to the southwest metro economy, and;

WHEREAS, expansion of runways and business aviation building area will promote continued investment, enhance economic vitality and ensure modern facilities, in keeping with Eden Prairie's image as a prosperous as well as environmentally responsible community, and;

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WHEREAS, a Final Environmental Impact Statement (FEIS) has been prepared by the Federal Aviation Administration and the Metropolitan Airports Commission and submitted to the Minnesota Environmental Quality Board (EQB) which addresses all material environmental concerns, and;

WHEREAS, expansion of the runways will improve operational safety at the airport, and;

WHEREAS, expansion of the airport will promote improvements in security at the airport.

NOW THEREFORE BE IT RESOLVED, that the Eden Prairie Chamber of Commerce supports the expansion of runways and building area at Flying Cloud Airport and strongly encourages the Metropolitan Airports Commission to complete the expansion in a timely manner.

Rief, Bridget

From: Steve Case [steve@cyberoptics.com]
Sent: Thursday, September 16, 2004 4:53 PM
To: brief@mspmac.org; glen.orcutt@faa.gov
Cc: Steven K. Case
Subject: Flying Cloud Expansion

Ms. Bridget Rief (MAC) and Mr. Glen Orcutt (FAA):

I am responding to the article I saw in the Star Tribune dated September 15 soliciting comments on the expansion of regional airports in the Minneapolis area. I will start with my biases so they are clear.

I am a Minneapolis based business builder who has had my company featured in various "Fastest Growing" articles over the years.

I am a frequent traveler on Northwest Airlines and appreciate direct flights to many destinations. I have logged 1.2 Million miles on NWA. I am a NWA bondholder and wish for their success.

I am training to become a private pilot.

Thus, I am a consumer of aviation services and have a strong interest in aviation.

137 That said, I strongly encourage the further development of regional airports. They enable an increased use of small aircraft which will help the local economy. The business leaders who may be interested in expansion into the metropolitan area may well arrive by private plane and we want them to have a good first impression as well as the ability to operate from a safe, less busy airport. Increased regional airport capacity, of course, also is highly desirable for any company using small aircraft for operations out of Minneapolis. Air travel is essential to all sorts of American business and we have to continue to make it desirable and available to more and more traffic. If Flying Cloud is to be further developed, however, money also has to be spent on improved automobile access as well as runways or else the convenience of air service has not been increased. It is extremely difficult to get to Flying Cloud at hours other than mid-day.

I would prefer the further development of Crystal Airport rather than Flying Cloud because of the significantly reduced road traffic. The recent completion of Highway 100 makes access to Crystal from the East much easier. Additionally, Crystal is further from MSP so that it better serves areas that are further from the south east portion of Minneapolis (while Flying Cloud is closer.) I suspect that it is also less expensive to acquire land near Crystal compared to Eden Prairie and that this portion of the Twin Cities could more use the economic boost from services that will surround the airport.

Regarding NWA objections to any expansion of regional airports, their bias is understandable as a for-profit company. They have a near monopoly on the local air service market after their allowed merger with Republic and they want to keep it this way. They want all money for aviation to be beneficial only to their direct interests. I understand their view but do not agree with it, even though I use their services and have a vested interest in their continued success.

Thanks for reading.

Sincerely,

Steven K. Case

Kimberle A. Kaufman
7356 Ontario Blvd.
Eden Prairie, MN 55346

September 15, 2004

RECEIVED
SEP 16 2004
Airport Development

Bridget Rief
Metropolitan Airports Commission
6040 - 28th Avenue South
Minneapolis, MN 55450

Dear Ms. Rief:

I am writing to voice my concerns regarding the expansion of Flying Cloud Airport in Eden Prairie. I do not live close to the airport. I live over by the high school and still I am deeply troubled by the insistence of MAC to expand an airport that is in the midst of densely populated Eden Prairie. I do not believe you have addressed some key points adequately to ensure this expansion will not significantly degrade the quality of life we enjoy here in Eden Prairie.

I am very concerned about the toxic ingredients in jet fuel ^{exhaust} contaminating our air, soil and water. Expanding the runways so that corporate jets may use the airport will definitely increase the environmental pollution in our area. Your average business jet will be less than 1000 feet over people's homes that are within a three mile radius of Flying Cloud. There are no studies to date proving there are no toxic side effects of jet pollution on children. These kids breathe the air, play outside, roll around on the grass and drink the water, which over time becomes contaminated from whatever substances fall from the air down on to the surface of the earth. It is only a matter of time before it percolates down through the soil to reach the aquifers that we all draw our water from.

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If you have not consulted with Dr. Todd Anderson of The Institute of Environmental and Human Health about the toxic effects of jet fuel on the environment and humans, you haven't done your homework. The institute's phone number is 806-885-4567.

There is an article in the Los Angeles Business Journal, dated May 12, 2003, by Laurence Darmiento detailing the environmental havoc that has been caused by perchlorate, a toxic product in military jet fuel. Many wells in Los Angeles have been closed due to contamination, and the Colorado river is also contaminated with this substance. *

Another issue I wanted to discuss was the problem with noise. I grew up in Richfield on 11th Ave. Noise pollution is not limited to a three mile radius of the airport. I know what has happened to East Richfield as a result of MSP, and I don't want the quality of life, real estate value, and environmental quality to go downhill. Granted, Flying Cloud is never going to have even a small fraction of the number of planes as MSP. It won't take that much of an increase in traffic at Flying Cloud airport to degrade the quality of life.

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effects of toxins in
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The World Health Organization blames excess noise for an increased risk of hypertension and heart disease. A Dutch study linked hypertension with living near an airport. Several studies have found that workers exposed to noise are at higher risk for high blood pressure. One recent survey found that noise was the main reason people wanted to move out of their neighborhoods.

At persistent and/or very high levels, it permanently damages hearing. Aside from its adverse effects on hearing, the uncontrollability of noise, rather than its intensity, seems to be the greatest irritant. Noise you can't shut off is likely to have more severe effects on your emotional well-being. People may adjust to noise and learn not to hear it, but that's not necessarily better for their health.

Noise impairs performance of school children and others subjected to it while working. Persistent exposure to noise can cause sleep disturbances, discomfort, anxiety, depression, and headaches. It can make psychiatric disorders worse. As noise levels rise, so has the number of organizations, laws, and ordinances trying to cope with the problem. In Congress, there are at least ten bills aimed at regulating noise, mostly from airplanes.

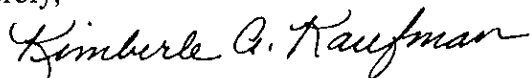
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Phil Boyer, President of the Aircraft Owners and Pilot's Association (AOPA), states that his members supported "preserving and maintaining the current infrastructure rather than looking for expansion projects." Jerry Bryndal, a pilot who has used Flying Cloud airport for twenty years, says, "I do not know of a valid financial return for the city to justify subjecting our community to the many negatives that would come from the expansion."

The FAA has studies showing that General Aviation does not cause congestion at major airports like MSP. The FAA participated in the deal between MAC and the City of Eden Prairie, which promised not to increase the 60,000 pound weight capacity of runways. Now the FAA is rejecting weight restrictions for runways. This means there is no safeguards in place for protecting the City of Eden Prairie and its residents from the negative impact of the expansion.

If you expand the airport at Flying Cloud, you will degrade a large portion of the City of Eden Prairie, our city that we chose to live in, raise our children, and develop community with our neighbors.

Sincerely,



Kimberle A. Kaufman

Rief, Bridget

From: Dick Cottrell [dickcottrell@visi.com]
Sent: Thursday, September 16, 2004 9:24 AM
To: brief@mspmac.org
Cc: glen.orcutt@faa.gov
Subject: Flying Cloud airport expansion

Greetings:

I am writing to register my wife & my opposition to the proposed expansion. The increased traffic will have a potential negative impact on residential property value in the area affected by approaching and departing traffic. We see evidence of this at the MSP terminal - increased noise insulation of homes to protect residents but of course no way to make their back yards and parks similar to other areas outside the approach areas.

If there is a documented decline in residential value following an expansion, could this result in a class action law suit over loss of property value? Have you included this potential expense in your estimates? What plans and assumptions for cost have been made to provide noise insulation services for residences adversely affected in order to provide equity of treatment similar to the main airport? In case you have not noticed, jet powered planes are much louder than prop driven ones. This expansion will increase jet traffic.

This impact is not only a noise issue but also a potential for property damage. While we may receive free tree-top trimming by errant pilots approaching or leaving the airport, we don't feel this reward offsets the potential for property damage and reduction in residential property value.

Nina and Dick Cottrell
8044 Cheyenne Avenue,
Chanhassen, MN

Dick Cottrell
Compensation Design Services
80 West 78th Street, Suite 205
Chanhassen, MN 55317
Phone: 952-934-9218
E-mail: dickcottrell@cds-bds.com

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Rief, Bridget

From: Jobrecht1@aol.com

Sent: Thursday, September 16, 2004 8:27 PM

To: brief@mspmac.org; glen.orcutt@faa.gov

Subject: Flying Cloud Expansion

Dear Bridget and Glen,

I am a concerned tax payer in Eden Prairie who lives close to the airport. So close in fact that the East/West runways flight path is directly behind our home. We live in Bell Oaks off of Riverview Road.

My concerns are twofold. First, I understand that air emissions from airplanes hang in the trees near airports. We have a small forest behind our home that many neighbors also enjoy. I would like the air quality behind our home tested for emissions to see the environmental impact this airport is currently having on our neighborhood. Of the people that live by our ravine (which is connected to Purgatory Creek) seven of the twelve homes have experienced cancer in the last three years.

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The air quality needs investigation.

Second, the noise from airplanes early in the morning wakes us up most Saturdays before 6:00am. How would you like to be woken up that early on Saturday? I have called the city officials who simply claim not to have any ability to help. What is the answer? Definitely not expansion! Please consider this heart felt plea before moving forward. I can be contacted at 952-943-2720. Thank you and I will appreciate your prompt response.

Janice Obrecht

Rief, Bridget

From: RAYLAMOVEC@aol.com
Sent: Thursday, September 16, 2004 2:23 PM
To: brief@mspmec.org; glen.orcutt@faa.gov
Subject: Flying Cloud Expansion

Please be advised that I am totally opposed to the expansion of Flying Cloud Airport.

141

I am a citizen of Eden Prairie. My life savings are invested in my home, which is not far from the airport. I know that the expansion will negatively affect property values, but my reasons for being against the expansion go beyond that.

It has been documented that most of the traffic at Flying Cloud is recreational or training -- some estimates are as high as 97%. The expansion would not offload MSP to any significant degree. The expansion costs have been estimated at around \$89 million dollars. For what?

With the downturn in the aviation industry in general since 9/11, several major carriers are in danger of going out of business as it is.

I can't imagine anyone in a position of making this decision who would look at all of the facts and then decide to spend the taxpayer's money.

Please use your heads wisely. The money that you are deciding to spend does not belong to you. Please remember that.

Cathy Lamovec
Eden Prairie

Rief, Bridget

From: Cindy Egertson [cjegertson3@hotmail.com]

Sent: Thursday, September 16, 2004 9:22 PM

To: brief@mspmac.org; glen.orcutt@faa.gov

Subject: Comment on Flying Cloud

My concern regarding the environmental impact study is that I believe the study to be flawed, particularly regarding noise impact.

I believe that the study makes assumptions that airplanes take off and land along the line of the runways. In reality, when planes are taking off to the "west", the airport employs a protocol (for lack of a better term) that directs planes to turn to the southwest as soon as possible—voluntarily. MANY planes do this. I think the noise impact is magnified because the planes have to keep their engines at higher throttle levels to maintain altitude or climb while banking to the southwest.

I live southwest of the end of the runways and notice many planes flying directly over my house and neighborhood—due to this protocol. It once made sense because housing development was more sparse around here. Now, the protocol no longer makes sense.

I also believe that the protocol to turn southwest is not contemplated in any of the studies. I would ask that either you rework the studies or end the protocol to turn southwest. Please advise.

Kurt D. Egertson
17076 Acorn Ridge
Eden Prairie, MN 55347
952-937-3518

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17460 Haralson Drive
Eden Prairie MN. 55347
September 16, 2004

Ms. Bridget Reif
6040 28th Avenue S.
Minneapolis MN 55450

Dear Ms. Reif:

This is to comment and protest the Flying Cloud airport expansion.

I believe the following are good reasons not to expand:

143

- 4) Airplanes are dirty and add to air pollution in our area.
- 5) Airplanes are noisy and are a degradation of our right to the quiet enjoyment of our property.
- 6) The airport expansion is uneconomic. How could we ever expect a return on a \$60,000,00 investment? It is a sinkhole. We could build two or three high schools that that kind money!

Trust you will keep these comments in mind when you re-consider this project.

Very truly your,

Robert W. Lawrenz

144

RECEIVED Sept. 15, '04
SEP 16 2004
Airport Development

To: Bridget Rief / MAC Commissioners,
Re: The environmental impact of a proposed expansion of runways and facilities at Flying Cloud Airport.

I believe the proposed expansion of FCA will benefit a few and have a negative environmental impact that will affect many. Our family has lived north of this airport on the west side of Staring Lake for over 37 years. We know something about the negative impact that now exists with increased small jet traffic, which is my primary concern. Noise from piston engine planes is annoying, mainly during prolonged engine runups before take off and maintenance attempts at FBOs, particularly after the tower closes at night and in the early morning hours. Sleep is often disrupted by the loud and sustained noise; It is more than a "disturbance of the place", which we've learned Eased Prairie Public Safety unfortunately has no jurisdiction over. This problem will surely increase with expansion.

However, I believe the increased jet traffic that will come with extending the runways is a more major problem that will affect many more people.

I walk in Staring Lake Park every morning. Any southerly breeze brings with it the noxious smell of spent jet fuel that permeates the air in the park and surrounding recreational/residential areas, lingering in the air long after a jet has taken off. Runway extension will only intensify this air pollutant's range and concentration. Have you studied the health effects of regular exposure to jet fuel pollutants?

in children who play in the park and live in the area? I want to know what is being done to address this, because it is a very troubling scenario. My hope in writing is that the Commissioners will be careful to respond to the needs of the many people with whom Flying Cloud Airport must co-exist, as well as the needs of the few people who will use and profit from the proposed expansion.

I think of the countless number of people, young and old, who come to use and enjoy beautiful Staring Lake Park; Future generations will need that place to retreat and play even more than we do now. There's much to gain or lose depending on your decisions on this important consideration.

Thank You.

Sincerely,

Carol Kottke

14674 Staring Lk. Hwy.

Eden Prairie, MN 55347

Rief, Bridget

From: CWor417629@aol.com
Sent: Wednesday, September 15, 2004 7:58 AM
To: brief@mspm.com
Subject: Flying Cloud Airport

Dear Ms. Rief;

145 I am reading this mornings Star Tribune and I am very unhappy. I recently purchased a new single family home at the Hennepin Village association on highway 1. I was told that the land adjoining the airport was purchased to keep residential building at bay - not for the expansion of the airport.

We have lived here since May 2004. I love the area and our home. I do not like the airport noise. It is very obtrusive in our day. I cannot be on the telephone anywhere in my house if the windows are open and a plane takes off or lands. We are up by 5:45 am during the week days so with our hustle and bustle we don't notice the morning airplane take offs or the planes coming home after 5:00 pm. But, on the week-ends, now that's a different story. We look forward to sleeping in - with kids that's hard to do. But, with the airplanes taking off - it's impossible. I had no idea the noise would be this constricting. No one does until they live by it. And, I think it has gotten worse. It seems the planes are much louder or there are more of a certain kind of plane that doesn't get as high or something but it is different now.

In the article, Joe Smith, General Manager of Elliott said that this expansion would allow for more planes and more variety. I'm afraid of that - more planes - non stop noise and variety - louder planes!

Our housing area has 3 groups of Hennepin Village my group is in the middle of the sub-division we have 150 homes. The group being built up now is 300 and it is right next to the airport land and next year they will be starting 600 homes West of us. This is a lot of homes just sitting West of the runway. I hate to see their faces when they hear what I hear now.

Please do something to stop this expansion. I know that the runway expansion is going East and West. Why not send the expansion North and South over the river instead of over our housing sub-division. The article also had concern about the Wild Life Refuge being damaged by the additional traffic. Gosh - no mention about the damage to our lives financially, physically, and emotionally. What on earth are we thinking these days.

I look forward to hearing a NO on this proposal.

Kindest regards and good luck.

Cynthia Workman
9763 Gable Drive
Eden Prairie, MN 55347
952-943-2254

I am very upset with the predicament I am in.

Rief, Bridget

From: Mark.Diede [Mark.Diede@target.com]
Sent: Wednesday, September 15, 2004 3:21 PM
To: 612-713-4364glen.orcutt@faa.gov; brief@mspmacc.org
Cc: erik.paulsen@house.mn; sen.david.hann@senate.mn; tim.pawlenty@state.mn.us
Subject: Flying Cloud Expansion

I thought I read somewhere that flights are currently diverted from or will eventually be diverted from the river bluffs due to pollution.

Sorry folks a goose does not equal a kid.

146

If we are to expand an airport in the city then the environment must suffer, not the children playing on the grass. Build a new airport in a cornfield and do not let any development within 20 miles of it.

Whenever I drive past that bluff area, I imagine what a developer could do. Ballpark anyone?

At any rate, I oppose any expansion of the airport.

Rief, Bridget

From: Bob Breckner [bbreckner@datasales.com]
Sent: Wednesday, September 15, 2004 1:21 PM
To: glen.orcutt@faa.gov; brief@mspmac.org
Subject: We need to expand the FCM Airport now!!!

Ms. Bridget Rief and Mr. Glen Orcutt:

We definitely need to expand the FCM airport! It is the jewel of the southwest metro area and is ripe for expansion to serve the growing business/residential communities!

Adding another 1000 feet of runway will not change the overall character of the airport but will provide for several aircraft to utilize the airport versus going to MSP. The additional traffic would be generally light jets that have single takeoff and landing operations. These aircraft are quieter and have higher performance and can obtain altitude very quickly.

147

It will also provide an additional safety factor for the current users! The current 3950ft already severely limits operations when wet or contaminated runway conditions exist. I know of aircraft that take off to reposition to MSP to load up on passengers and fuel! What a waste of time, fuel and a takeoff/arrival slot.

FCM has not changed in over 25 years! It has been a vacuum for improvements!

Why do we continue to provide Northwest with all of the funds when no capital improvement money is sent to FCM? It is interesting that the most subsidized company in Minnesota (Northwest) claims that they are the ones subsidizing the general aviation community (that according to one of our own State Legislators)

When the decision was made to keep MSP at the current location, one of the objectives was to improve the reliever airport system. This has not happened!

I hope we can reverse a 25 year trend of no improvements and make the most of a very important asset!

Bob Breckner
Data Sales Company
3450 West Burnsville Pkwy
Burnsville, MN 55337

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9/13/2004

Rief, Bridget

From: Paul Breckner [pbreckner@datasales.com]
Sent: Wednesday, September 15, 2004 1:38 PM
To: glen.orcutt@faa.gov; brief@mspmac.org
Subject: FCM Airport- I support the expansion

Ms. Bridget Rief and Mr. Glen Orcutt:

I understand that you are both involved in collecting letters regarding the expansion of Flying Cloud airport.

I am hopeful that you will agree and understand the importance of General Aviation.

148

If one were to carefully look at the corporate expansion in the Twin Cities, many companies have located in the southwest corridor.

Many of these companies utilize FCM and either operate or charter aircraft. The airport has become a larger asset to the community

in the post 9-11 turmoil that has increase at all major airports. The airport has been ignored too long and if we are to forecast future growth, I do not think MSP can handle the traffic.

I support the expansion!

Paul Breckner
Data Sales Co. Inc
Main: 952 890-8838
DID: 952 895-3320
FAX: 952 890-8917
email: pbreckner@datasales.com

Rief, Bridget

From: John Lindstrom [JLINDSTROM@stlouispark.org]
Sent: Wednesday, September 15, 2004 2:38 PM
To: brief@mspmac.org; glen.orcutt@faa.gov
Subject: Flying Cloud Expansion

To Whom It May Concern:

As a pilot and an instructor currently working at the Flying Cloud Airport, I would like to voice my support for the planned expansion of the Flying Cloud Airport. I have been a pilot since 1991, and began flying as a student at the Crystal Airport. When I was hired by Hummingbird Helicopters and began working at Flying Cloud, I could not believe the difference between these two airports. The clear space provided around the Flying Cloud Airport shows that the safety of the public has been a high priority of the MAC and the FAA. Unlike the Crystal Airport, where the communities of Crystal, Brooklyn Park and Brooklyn Center have allowed developments to encroach right to the fence line, Eden Prairie has maintained a safe and community friendly buffer zone around Flying Cloud. This space must be maintained for the safety of both the aviators and the citizens. The planned runway expansion takes that into account.

149 The additional hanger space planned for the south side of the airport is crucial for the growth of general aviation at Flying Cloud. Many of the businesses currently housed at Flying Cloud have been limited in their growth due to the physical dimensions of the existing airport. By allowing the new construction on the south side many businesses, including Hummingbird Helicopter, will have an opportunity for new growth and revenue.

I would also like to go on record as one who resents the continued interference by Northwest Airlines in the plans for any investments in the reliever airport system. In their own publication the president of Northwest has publicly stated his resentment towards general aviation. His comments about airlines 'subsidizing' private aviation ignore the truth of the issue. If it were not for the success of the reliever airports, airlines such as Northwest would be staggered by the cost of sharing the Minneapolis / St. Paul International Airport with student, private and corporate aviation. Ground and flight operation delays would cost them millions of dollars. Northwest cannot be allowed to rule the decision making process simply because they are the biggest bully on the block.

Thank you for your time, your consideration, and your concerns for the health and safety of general aviation.

John A. Lindstrom
Hummingbird Helicopters of Minnesota
13601 Pioneer Trail
Eden Prairie, MN 55374
(952) 942-4911

Rief, Bridget

From: John Rice [jrice@dichtomatik.us]
Sent: Wednesday, September 15, 2004 7:58 AM
To: Brief@mspmac.org
Cc: Glen.orcutt@faa.gov
Subject: Flying Cloud (FCM) runway extensions

Dear Bridget and Glen

I would like to state my support for the planned runway extensions and airport improvements at FCM, and at the same time criticize the pressure that Northwest Airlines is placing on both of your organizations at the expense of general aviation.

The extension of the runways is a safety issue for general aviation pilots, who are overburdened as a rule with costs and fees that they do not realize any benefit from. Hundreds of millions of dollars have been paid by GA pilots into the Trust Fund fund which is being used for general budget purposes, and almost a billion dollars sits while we continue to pay huge taxes on fuel and other airport related fees. The money which is being presented for the FCM improvements has already been paid by GA pilots, why shouldn't it be used for the safety and enhancement of those that paid it in? 150

Northwest Airlines is a bully who threatens anyone or any company who does act strictly in Northwest's interests. They mercilessly play fare games with other low costs airlines interested in making MSP a destination (Southwest for example), yet hold the public hostage with an incredibly decadent rate system. Rather than figure out costs, add a fair margin and charge by the mile, they alienate passengers with poor service and indecent fares for those having to fly last minute (business OR pleasure), and then beg for assistance when their system doesn't show them profitability yet they refuse to make changes. They institute self service capabilities to have their customers do more work in the reservations process, but give nothing back to those passengers for the extra work involved. Northwest does everything possible to drive GA pilots out of larger airports, then fight tooth and nail to keep dollars GA pilots have already paid for improvements from going to those improvements. They want it both ways. It is prohibitively expensive for GA pilots not being subsidized on a corporate expense account to pay ramp fees and fuel costs at larger airports, yet they also do not want any of our paid in tax dollars going for improvements at airports we can afford.

Please consider using GA Trust fund money to pay for the improvements needed at GA airports. If you can not allow for the improvements at GA airports, then please at least reduce the incredible fees and taxes imposed on GA pilots to utilize publicly owned facilities at all airports.

Sincerely yours,

John E Rice, President



1087 Park Place
Shakopee, MN 55379 USA
(952) 707-1521
jrice@dichtomatik.us

Rief, Bridget

From: steve chicoine [stchicoine@hotmail.com]

Sent: Wednesday, September 15, 2004 9:52 PM

To: glen.orcutt@faa.gov

Cc: brief@mspmacc.org

Subject: Opposition to Expansion of Flying Cloud Airport

Importance: High

We are writing to you to express our deep concern as to the proposed development of the Flying Cloud Airport in Eden Prairie, MN.

We cannot imagine how anyone can (properly) assess the environmental impact and approve the expansion with the resulting increased air traffic at low altitude over the residential areas, as well as the adjacent wildlife refuge. The issues across a broad spectrum of air and noise pollution are only too obvious. Does it help for me to add that I have a graduate degree in engineering?

151

There is no doubt in our minds that this is yet one more case of business taking top priority and shoving its agenda through, regardless of the common good. As citizens and taxpayers, we expect you to recognize the obvious and block this unnecessary expansion. It will benefit but a few who fly private jets. Seriously now, is that for the overall common good? We sincerely would appreciate some dedicated civil servants standing up for the common good. We deserve more of that in this nation of ours.

The Eden Prairie Chamber of Commerce does not represent the people of Eden Prairie. I trust that is apparent to all concerned.

Sincerely and Respectfully,

Stephen and Mary Ann Chicoine
11530 Landing Road
Eden Prairie, MN 55347
952-944-3129

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Rief, Bridget

From: Mike & Eileen Benz [mbenz@isd.net]
Sent: Wednesday, September 15, 2004 9:21 PM
To: brief@mspmac.org; glen.orcutt@faa.gov
Subject: Proposed Expansion of Flying Cloud Airport in Eden Prairie

Ms. Bridget Rief
 Metropolitan Airports Commission
 6040 28th Ave S.
 Minneapolis, MN 55450
 612.725.8371
 brief@mspmac.org

Mr. Glen Orcutt
 Federal Aviation Administration
 6020 28th Ave S. #102
 Minneapolis, MN 55450
 612.713.4354
 glen.orcutt@faa.gov

The first letter we ever wrote to the MAC regarding the proposed expansion of Flying Cloud Airport was when our youngest son was just barely two years old. This year he started his senior year at Eden Prairie High School. My how sixteen years have flown – and here we are – still writing letters voicing our concerns against the expansion!

Up until two years ago we lived in a house on Spring Road that would have been positioned just a stone's throw away from the end of an extended 9R/27L. We'd seen over a half dozen different scoping documents. Initially our house was an acquisition property. Then it wasn't. DNL contour lines changed like the seasons. We always got the feeling from the MAC that because we weren't in a defined neighborhood – we didn't matter. With an extended runway, noise mitigation would have many of these planes turn south and head out over the Minnesota River valley. That turn south technique would put those planes right over the top of our house. But, because there were only a few houses in the area, MAC didn't seem to care. How ironic that our property (and that of our two neighbors) was purchased by a developer who fashioned high density housing (Hennepin Village) out of the old "neighborhood". I wonder if MAC is ignoring this neighborhood now. 152

As I shuffled through our box of expansion documents, I came across some preliminary cost estimates for the expansion project in the July 1991 EAW/DSDD. Seems the project was pegged in the \$11.5 million dollar range (\$2.6 for land, \$8.9 for construction and improvements). In the final EIS, the costs are listed in the \$41 million dollar range (\$18.5 for land, \$22.5 for construction and improvements). What ever was MAC thinking? I think it shows MAC's complete lack of fiscal responsibility toward the whole project and the taxpayers that foot the bill. Of course we know that \$41 million is probably a very conservative figure. In this day and age (actually any day or age) I find it hard to justify spending this amount of money to benefit such a small number of people. Especially since the people that will benefit most from this project are already operating at significantly subsidized rates.

The MAC has not been forthcoming with the City of Eden Prairie and its citizens. Reneging on Ordinance 51 was quite the tactic. Cost/benefit analysis just doesn't add up. Here's a novel idea – perhaps the MAC should utilize its existing facilities. We know that Flying Cloud Airport will always be part of our backyard, we can't argue that. We can argue against further expansion. It's not wanted. It's not needed.

Sincerely,

Mike & Eileen Benz
 15705 Corral Lane
 Eden Prairie, MN 55347
 952.937.8888
 mbenz@isd.net

Rief, Bridget

From: John Duffy [duffyjp@msn.com]
Sent: Wednesday, September 15, 2004 6:51 PM
To: brief@mspmacc.org
Cc: glen.orcutt@faa.gov
Subject: Flying Cloud Airport expansion

Ms. Rief,
We live several blocks from the Flying Cloud Airport. The airport traffic is noticeable at the present time but seldom overly intrusive.

However the areas surrounding the airport are all being developed mostly with multiple family dwellings resulting in reduced open areas.

We believe that the proposed expansion will significantly increase the noise pollution and increase the probability of airplane accidents in and around the airport. In addition both of these elements will in the future reduce the value of all of the homes and housing in the area.

153

The published information that we have seen strongly indicates that the other existing regional airports in our area will support all future small aircraft needs without the proposed expansion of the Flying Cloud Airport.

We do not support the expansion of the Flying Cloud Airport.

Sincerely,

John M. & Patricia L. Duffy
9008 Terra Verde Trail
Eden Prairie, MN 55347-2197

Rief, Bridget

From: Guilherme.Schmidt@black-river.com
Sent: Wednesday, September 15, 2004 2:54 PM
To: brief@mspmac.org
Subject: Flying Cloud Expansion

I wanted to express my opinion of support for the Flying Cloud Airport expansion. I am a firm believer that air transportation is part of our progress and evolution. Airports are like roads, they come with progress, and nobody likes more and wider roads, but they are necessary to accomodate traffic and make car traveling safer. Same goes with airports. With the incoming advent of the very light jets, there will be increasing burden on airports, and safety must come first. Also a solid and exemplary relief airport system in crucial for the state of Minnesota. Delays at MSP makes flying into MN undesirable. A strong relief system, alleviates traffic at MSP and give more options for charter flights and attract more business at MSP. Undoubtely the economic impact of the expansion of Flying Cloud would be positive for the city of Eden Prairie and for the state of MN. Let alone the number of jobs that would be created by airport business expansion, we would host more business conferences in town, as access to charter flights would be easier, more people would consider corporate aircraft ownership, since getting in and out of Flying Cloud is a lot easier than MSP, and airlines passengers would be happier with fewer delays due to general aviation traffic moving away from MSP. Money sent in progress, is money well spent. The enviroment issues can be addressed with proper traffic procedures and voluntary nigh restrictions. But above all things safety is a must. The runway system at Flying Cloud is old, and with the increase in traffic and demands of private air travel, i would hate to see our air transportation infra structure see the same destiny that our road system is now seeing. Suffering from bottle neck capacity due to lack of visionary planning and investments.

154

Guilherme Schmidt
Phone 952-984-3037
5920 W 70th St
Edina, MN 55439

Rief, Bridget

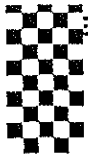
From: John Hamel [john@hamelrep.com]
Sent: Wednesday, September 15, 2004 4:01 PM
To: brief@mspmac.org
Subject: strobe lights

Bridget,

155 Thank you for responding to my phone call today, it is nice to know we have local representation on issues affecting the neighbors closest to the airport. I am not opposed to the expansion, primarily because of the buffer zone land that has been purchased and thus will not be developed. I am concerned about the impact on the neighbors to the west, when the strobe lights are extended to the west 1200 feet and the excessive loss of trees for these lights. Scott Kipp senior planner of Eden Prairie indicated there would be a bowl effect of the hill where the lights are located and this would keep the light pollution to a minimum. I have not been able to verify that these issues have been considered, addressed and assured by an approved grading plan.

Thank you again for responding to these very important issues.

John Hamel



BETASEED



Betaseed, Inc., 1789 Marshall Road, P.O. Box 195, Shakopee, MN 55379-0195 • Phone: (952) 445-8090 • Fax: (952) 496-0205

September 15, 2004

To: Metropolitan Airports Commission Members
Lynn Sorensen
Fax#: 612-726-5306

Subject: Expansion of Flying Cloud Airport


I am President of Betaseed, Inc, a medium sized agricultural seed company located in Shakopee, MN. Betaseed does business throughout the western two-thirds of the US and internationally. As such, many of my fellow employees and I travel extensively and frequently, both domestically and internationally. A viable and stable commercial airline industry is vital to our business. I am writing to ask you to oppose the expansion of Flying Cloud Airport in Eden Prairie, MN.

My company and the entire region as a whole will benefit much more from investing available funds in MSP rather than in the expansion of Flying Cloud. Betaseed and most other commercial businesses in this region depend heavily upon commercial air carriers, and any action that would weaken their competitive position would be detrimental to the region. As you know the airline industry is in terrible financial condition, and it is doubtful this will improve significantly in the next 5 - 10 years. We are fortunate that our primary MSP carrier, Northwest Airlines, is stronger than most others. I am glad my company does not face the prospect of having its principal airline facing liquidation. Available funds should be directed to MSP as a means of supporting commercial airlines serving MSP to assure that MSP does not become a "spoke" instead of a "hub".

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Granted, expansion of Flying Cloud would likely benefit the companies that supply services at this airport and some companies and individuals that rely on larger aircraft that are not able to use the current Flying Cloud runways. However, the damage that will be caused by expansion far outweighs the benefits, and I urge you to oppose the expansion of Flying Cloud Airport.

Sincerely,


E. Joe Dahmer
President



Late Filed Comment Letters and Responses

National Waterworks

15801 WEST 78th STREET
EDEN PRAIRIE, MN 55344

TELEPHONE 952-937-9666
FACSIMILIE 952-937-8065

JH, TH, (CS), NF, T, JF

September 17, 2004

Metropolitan Airports Commission
Ms. Lynn Sorensen
Commission Secretary
Metropolitan Airports Commission
6040 28th Avenue, South
Minneapolis, MN 55450

Re: Flying Cloud Airport Expansion

Dear Ms. Sorensen,

National Waterworks (NWW) is a resident business of Eden Prairie, MN and we have many opportunities to use Flying Cloud Airport. NWW is a distributor of products for the underground construction market. Whether we are flying out for a plant tour or a vendor is flying in to see us, we use the Flying Cloud facility multiple times a year.

I understand that the expansion of Flying Cloud is under consideration. I strongly recommend the further development of the airport to stay in tune with the times. I would like to share the following real-life example with you. We were picked up at Flying Cloud for a plant tour in Texas. The plane was a Citation jet owned by one of our vendors. The pilot was an air force reserve pilot and very familiar with the plane. I was able to sit in the front seat with the pilot.

Both on takeoff and landing the pilot had to perform extraordinary maneuvers because of the short runways. While both takeoff and landing were safe and within parameters, he still had to perform these functions under less than desirable conditions. The increased angle on takeoff was quite the ride. I do believe that a longer runway would make these maneuvers unnecessary.

I would appreciate it if you would consider this information during your decision making process.

Sincerely,



Mark Smith

District Manager - National Waterworks / MN

Response to National Waterworks Comments

Comments noted.

Rief, Bridget

From: Etling, Lynne I [LynneEtling@eaton.com]
Sent: Friday, September 17, 2004 12:08 PM
To: brief@mspmac.org; glen.orcutt@faa.gov
Cc: letling@mn.rr.com
Subject: Strongly AGAINST The Flying Cloud Airport Expansion
Importance: High

Good afternoon,

My apologies for my tardiness.

I live within 1 mile of the Flying Cloud Airport at:

9504 Creek Knoll Road (952-943-0775)

Our whole neighborhood is strongly against the recent news concerning expansion of the airport.

I think Jerry Bryndall sums it up "The question begs to be answered--if the pilots using the airport are against it and the community does not want it, who is behind the push for this expansion? We like our airport at it is--a friendly neighborhood spot to enjoy some aviation. The usage numbers do not support expansion, the cost does not support expansion, the noise does not support the expansion, the pollution does not support the expansion."

My husband and I love the animal life that our neighborhood brings. Expanding the airport will not only harm the human residents but it will also harm the wildlife in the area. Staring Lake will not exist as it is today. I urge you to stop any push to expand this airport.

Kind Regards,
Lynne and Daniel Etling

Lynne Etling
eBusiness Manager
Eaton Fluid Power
Hydraulics Operations
14615 Lone Oak Road
Eden Prairie MN 55344
Phn (952) 949-1644
Fax (952) 937-7105
LynneEtling@eaton.com

Response to Lynne and Daniel Etling Comments

Comments noted.

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The following letters are from Talktrans/Zero Expansion and were submitted to the MAC and EQB as part of the Minnesota environmental review process for the determination of adequacy of the State FEIS by the EQB. The FAA was not copied on the following letters, but was asked to comment at the EQB Board meeting. The FAA was consulted by the MAC in preparing a response to the January 3, 2006 Talktrans/Zero Expansion letter and concurs with the responses in the enclosed January 11, 2006 MAC letter signed by Nigel Finney. The MAC response is also appropriate for the January 9, 2006 and January 17, 2006 Talktrans/Zero Expansion letters, which in essence cover the same comments as the January 3, 2006 Talktrans/Zero Expansion letter.

Talktrans/Zero Expansion Comments
Related to the Proposed Expansion of Flying Cloud Airport
www.talktrans.com
transportationtalk@yahoo.com
talktrans1@mn.rr.com
PH: 952-937-6288
FAX: 952-934-1748

Metropolitan Airports Commission
Lynn Sorensen, Commission Secretary- lsorensen@mspmac.org
RE: Full Commission Meeting to approve FEIS to be sent to EQB and FAA
cc: Met Council- Chauncey Case- chauncey.case@metc.state.mn.us
cc: Environmental Quality Board- John Larsen- jon.larsen@state.mn.us

January 3, 2006

Dear Lynn,

On behalf of talktrans/zeroexpansion please make these comments available to all Commission members prior to the Full Commission meeting and include them in the agenda/minutes for the January 4, 2006 Full Commission Meeting.

This is an open letter to members of the Environmental Quality Board and the Metropolitan Airport Commission concerning the Final Environmental Impact Statement (FEIS) for the Flying Cloud Airport.

The new information presented here impacts Flying Cloud Airport and its vicinity and has never been addressed in the EIS or the FEIS for Flying Cloud. In light of this information, we expect that the FEIS for Flying Cloud will not be approved by the EQB and will be sent back to MAC to address these issues.

The FAA's new definition of Minneapolis Class B Airspace

The FAA made a new Final Ruling on an amendment for the Modification of the Minneapolis Class B Airspace Area, which first became effective September 15, 2005. The amendment became effective November 16, 2005 and was reported in the Federal Register on November 28, 2005 (Vol. 70, No. 227, pages 71233-71236, Rules and Regulations, attached). This is new, previously unavailable, information pertaining to the Flying Cloud Airport and it will have an impact on the community.

To accommodate the new Runway 17/35 at MSP the FAA recently modified the Minneapolis Class B airspace area (effective September 15, 2005). Subsequent to that modification, FAA further analysis revealed that additional airspace would be needed to contain large turbine powered aircraft (commercial air passenger and cargo jets) conducting approaches to the new Runway 35. The FAA has amended the Airspace Designation first dated and approved on September 1, 2005 and now has approved the amendments as of November 16, 2005. This is just to reiterate that the information presented here is a new amendment to the Minneapolis Class B airspace and unforeseen by the Flying Cloud FEIS.

What the new amendment from the FAA has done is to add another 2,000 feet to the ceiling of the arrival stream for approximately 900 large aircraft landing at MSP daily. This is an action that will enhance safety and operations at MSP, but it will also encroach on Flying Cloud Airport operations forcing more General Aviation aircraft to fly under the Class B airspace.

The new Minneapolis Class B airspace will have significant air and noise pollution impacts on Flying Cloud Airport and its immediate vicinity. Those impacts have obviously not been addressed in the EIS and consequently make the entire FEIS for Flying Cloud inadequate.

The arrival stream for MSP increases the ceiling for the MSP arrival stream from 8,000 to 10,000 feet in the Flying Cloud area. That alone, according to the AOPA, would "pose a serious operational limitation to those pilots wishing to over fly" the MSP Class B airspace area. Obviously, the AOPA is referring to smaller GA (General Aviation) aircraft that are not suited to or efficient to fly at altitudes over 10,000 feet. So, those aircraft would be forced and/or more prone to fly below the MSP Class B airspace or around it. The floor of the new MSP Class B airspace is at 3,000 feet over Flying Cloud and is now the new "ceiling" for GA aircraft operating out of Flying Cloud – until they can fly out from under the Class B airspace.

The FAA has essentially lowered the ceiling to 3,000 feet over Flying Cloud and forced many GA aircraft that would normally over fly MSP and Flying Cloud to fly under the 3,000 foot "ceiling". Common sense would dictate that forcing more aircraft down under this "ceiling" is going to negatively affect Flying Cloud Airport, airport operations and the vicinity around Flying Cloud. Force-feeding more aircraft to fly under this 3000-foot ceiling will increase noise and pollution levels in the surrounding community. This is what we have mentioned in the past as part of the cumulative effect of MSP and Flying Cloud sharing – or in this case – dividing up - airspace. Restricting the available airspace to GA aircraft and then forcing more GA aircraft into the lower altitudes will adversely affect noise and air pollution levels at Flying Cloud and its vicinity. These effects were never addressed in the current FEIS for Flying Cloud. The effects of 900 jets daily using a corridor over Flying Cloud to land and leave from MSP were also never figured into the cumulative effects of the Flying Cloud expansion. The absence of this information makes the FEIS for Flying Cloud inadequate.

An argument could also be made that this newly expanded flight corridor makes Flying Cloud a "less convenient" airport for GA pilots since FCM is in area C and over run by a major corridor for "900 high performance aircraft" daily - essentially shutting off any GA operations over 3,000 feet. The operating space of Flying Cloud over the 3,000-foot level has been severely marginalized. Expanding an airport like Flying Cloud that has been so thoroughly overrun by a neighboring airport (MSP) seems to be based more on wishful thinking rather than on good information – especially since the operations of Flying Cloud have been in decline for over 10 years and show no sign of turning around – except in the wishful thinking of the aviation industry.

Whether or not our evaluation of the FAA's new definition of Minneapolis Class B Airspace is considered correct or not is not the issue. The issue is that the airspace surrounding Flying Cloud has been redefined, affecting the operations of all General Aviation aircraft out of Flying Cloud and affecting access to Flying Cloud. These issues were never considered in the FEIS. Additional, cumulative effects at Flying Cloud coming from the 900 large aircraft daily approaching and leaving MSP should also be reconsidered. The redefined Minneapolis Class

B airspace has not been considered in the FEIS and it should be – otherwise the FEIS is inadequate.

Please see the attached document from the Federal Register from November 28, 2005.

Attachment:

- 11-28-05 Federal Register FAA Docket 15471, Modification of the Minneapolis Class B Airspace Area; MN

The FAA's new policy on Pavement Based Weight Restrictions

Formerly, the strength of a runway (measured in weight bearing capacity) was one of the factors that determined the size of the aircraft that could use a runway. That is no longer the case. Nationwide, the aircraft-runway pavement weight bearing capacity restrictions (PWBR) that were formerly in place have been changed to reflect the FAA's new policy, which eliminates aircraft-runway restrictions based on pavement weight bearing capacities. The FAA has ruled that PBWR's are discriminatory and should not be used to restrict aircraft from using runways. For example, this allows a 100,000 lb plane formerly restricted from a 60,000 lb weight bearing capacity runway because of its weight, to now land on that runway.

Contrary to the FAA position, MAC and the City of Eden Prairie have an agreement that limits the size of aircraft at Flying Cloud to the weight bearing capacity of the runway – which will be built for a 60,000 lb capacity. The FAA has not signed off on the Agreement between the City of Eden Prairie and MAC. This ambiguity allows the FAA to tacitly allow the City of Eden Prairie and MAC to retain their agreement (limiting FCM to aircraft below the 60,000 pounds the runways will be built for) and it allows the FAA to retain its new, nationwide understanding that allows aircraft, weighing far more than pavement based weight capacities would formerly allow them, to use runways across the country. If the FAA signed off on the current Eden Prairie/MAC Agreement, it would establish a new, nationwide precedent allowing airports across the country to discriminate aircraft on the basis of the weight bearing capacity of their runways. The more likely scenario is that the FAA will wait until the runway has been expanded and then rule that the Eden Prairie/MAC Agreement cannot contain any provisions restricting aircraft from Flying Cloud because of the weight bearing capacity of the runways.

In light of the Eden Prairie/MAC Agreement and the FAA's refusal to sign it, it must be assumed that aircraft weighing far more than the 60,000 lbs the runway was designed for and the FEIS did its research for, will be allowed to use the Flying Cloud airport. These larger aircraft were not incorporated in the EIS models and studies for noise pollution or air pollution at Flying Cloud. This new, FAA nationwide policy is not reflected in the EIS models and research and makes the Flying Cloud FEIS inadequate.

Attachments:

- FAA Proposed Policy Regarding Weight Based Restrictions at Airports, Letter dated 09-22-03
- Federal Register 07-01-03 FAA Docket 2003 – 15495 Weight Based Restrictions at Airports: Proposed Policy
- Airport Report Express 07-09-03, page 2 article, FAA To Update Airport Pavement Policy

Talktrans/Zero Expansion
www.zeroexpansion.com www.talktrans.com
transportationtalk@yahoo.com

Vicki Pellar Price – Talktrans
16893 Bainbridge Drive
Eden Prairie, MN 55347

Mark Michelson - Zero Expansion
17151 Cedarcrest Drive
Eden Prairie, MN 55347

determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a description of the exhibit object, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619-5997, and the address is United States Department of State, SA-44, Room 700, 301 4th Street, SW., Washington, DC 20547-0001.

Dated: June 23, 2003.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 03-16591 Filed 6-30-03; 8:45 am]

BILLING CODE 4710-08-P

DEPARTMENT OF STATE

[Public Notice 4388]

Culturally Significant Objects Imported for Exhibition; Determinations: "The Crau at Ales: Peach Trees in Flower"

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999 (64 FR 56014), and Delegation of Authority No. 236 of October 19, 1999 (64 FR 57920), as amended, I hereby determine that the object to be included in the exhibition, "The Crau at Ales: Peach Trees in Flower," imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with a foreign lender. I also determine that the exhibition or display of the exhibit object at the J. Paul Getty Museum, Los Angeles, California, from on or about August 5, 2003, to on or about January 13, 2004, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a description of the exhibit object, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619-5997, and the address is United States Department of State, SA-44, Room 700, 301 4th Street, SW., Washington, DC 20547-0001.

Dated: June 23, 2003.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 03-16590 Filed 6-30-03; 8:45 am]

BILLING CODE 4710-08-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2003-15495]

Weight-Based Restrictions at Airports: Proposed Policy

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed policy; request for comments.

SUMMARY: This notice requests comments on a proposed statement of policy on the use of weight-based airport access restrictions as a means of protectign airfield pavement. In grant agreements between an airport operator and the FAA for Federal airport development grants, the airport operator makes certain assurances to the FAA. These assurances include an obligation to provide access to the airport on reasonable, not unjustly discriminatory terms to aeronautical users of the airport. Some airport operators have implemented restrictions on use of the airport by aircraft above a certain weight, to protect pavement not designed for aircraft of that weight. These actions have raised the question of when such an action is a reasonable restriction on use of the airport. In the interest of applying a uniform national policy to such actions, the FAA is publishing for comment a draft policy on weight-based access restrictions at federally obligated airports.

DATES: Comments must be received by August 15, 2003. Comments that are received after that date will be considered only to the extent possible.

ADDRESSES: The proposed policy is available for public review in the Dockets Office, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. The documents have been filed under FAA Docket Number FAA-2003-15495. The Dockets Office is open between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the Nassif Building at the Department of Transportation at the above address. Also, you, may review public dockets on the Internet at [\[/dms.dot.gov\]\(http://dms.dot.gov\). Comments on the proposed policy must be delivered on mailed, in duplicate, to: the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify the docket number "FAA Docket No FAA-2003-15495" at the beginning of your comments. Commenters wishing to FAA to acknowledge receipt of their comments must include a preaddressed, stamped postcard on which the following statement is made: "Comments to FAA Docket No. FAA-2003-15495." The postcard will be date stamped and mailed to the commenter. You may also submit comments through the Internet to <http://dms.dot.gov>.](http://</p>
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FOR FURTHER INFORMATION CONTACT: James White, Deputy Director, Office of Airport Safety and Standards, AAS-2, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591, telephone (202) 267-3053. **SUPPLEMENTARY INFORMATION:** Airport operators that accept federal airport development grants under the Airport Improvement Program (AIP), 49 U.S.C. 47101 *et seq.*, enter into a standard grant agreement with the FAA. That agreement contains certain assurances, including assurance no. 22, based on the requirement in 49 U.S.C. 47107(a)(1). Grant assurance no. 22 reads, in part:

a. [The sponsor] will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all typos, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.

At the same time, the FAA expects that airport sponsors will protect airfield pavement from damage or early deterioration. Many airport projects funded with the AIP grants involve pavement. As a result, both the FAA and airport sponsors have a significant investment in airfield pavement, and an interest in assuring that pavement remains in acceptable condition for its design life, normally at least 20 years. The policy of assuring reasonable access to the airport and the interest in protecting the investment in airfield pavement are both extremely important, but is clear that they can potentially work against each other in a particular case.

In February 2002, the Airports Division in an FAA regional office issued a preliminary determination on the ability of a particular airport operator to limit use of the airport according to aircraft weight. In that case the weight limit effectively prohibited operation by aircraft heavier than the

aircraft considered in the design of the airport's pavement. The FAA found, in summary, that the airport operator could limit use above the design weight of the pavement, but that some operations above that weight could and should be permitted, because they would have no measurable effect on the pavement. The FAA has received several questions relating to the policy underlying that determination.

In view of the importance of the policies at stake, we believe it is appropriate to issue more specific guidance on the specific issue of weight-based access restrictions.

The policy proposed in this notice provides more detailed guidance on how the FAA will interpret Grant Assurance No. 22, in cases in which an airport sponsor limits operation by aircraft above a certain weight in order to preserve the integrity of airport pavement. The FAA requests comment on the following statement of policy, and may modify the policy in accordance with comments received on this notice. For any cases presented before a final policy is issued, the FAA will apply the policy as proposed in this notice.

For the above reasons, the FAA proposes to adopt the following policy:

Operating Limitations to Protect Airport Pavements From the Effects of Operations in Excess of Design Weight-Bearing Capacity

1. When designing new airport pavement or rehabilitating existing pavement, airport operators design the pavement to accommodate the loads and frequencies of the aircraft expected to use the airport over the period of expected pavement life. A load-bearing capacity is then assigned to the pavement based upon the most demanding aircraft. Once that pavement is constructed, airport operators have a responsibility to protect the local and Federal investment in the pavement. At the same time, airport operators are encouraged to upgrade airport pavements for forecast increases in aircraft size or operations, or if the number of operations and size of aircraft increase over time beyond what was forecast.

2. Airport pavements are designed to accommodate a finite number of aircraft operations, based on planning forecasts and experience. In most cases it should not be necessary or appropriate to impose aircraft operating restrictions to protect pavement from occasional operations of aircraft which exceed the published pavement strength. Even in the exceptional case in which the mix of aircraft types using the pavement

becomes heavier over time, a limitation on maximum weight of aircraft may not be warranted. It is the nature of airport pavement to begin a gradual deterioration process as soon as it is opened to traffic. A pavement designed for a specified number of operations by an aircraft type of a particular weight will not be immediately affected by some number of operations by heavier aircraft, up to a point. In general, each 10% increase in weight of the most demanding aircraft will decrease the number of design operations by 20–25%. The original load-bearing capacity of pavement may be increased by surface overlays or other pavement rehabilitation techniques. Therefore, some number of operations by aircraft exceeding the design load-bearing capacity of airport pavement by some degree will ordinarily not have a sufficient impact to shorten its useful life. (The Airport/Facility Directory introductory language notes that “[m]any airport pavements are capable of supporting limited operations with gross weights of 25–50% in excess of the published figures.”).

3. However, where the airport operator reasonably believes that actual damage or excessive wear has resulted or would result from operation of aircraft of a particular weight (and particular gear configurations), then the airport operator can limit those operations to the extent necessary to prevent that damage or excessive wear.

4. The design load-bearing capacity of pavement is a guide to the probability of adverse effects on pavement life. Design load-bearing capacity is demonstrated by planning and engineering documents created at the time the pavement was designed, constructed, rehabilitated or improved. Testing to determine actual load-bearing capacity may be appropriate or necessary where design information is unavailable or does not appear to represent actual current condition of the pavement.

5. Any action by the airport operator to limit operations above the design load-bearing capacity must be reasonable and unjustly discriminatory, and would require evidence of the effect of operations at certain weights on the pavement. Such limitations, if determined to be necessary, could include:

- Requiring particular taxi routes and parking areas for aircraft above a certain weight, to avoid weaker areas;
- Requiring prior permission for operation by aircraft above the design load-bearing capacity of the pavement (see examples in Exhibit 1);

- Permitting operations of such aircraft only up to a certain weight;
- Prohibiting all operations by aircraft exceeding a weight at which even a small number of operations would significantly reduce pavement life.
- Assigning heavy aircraft a particular runway (through agreement with Air Traffic Control) if operationally feasible.

Operating procedures, such as requiring use of designated taxiways and ramp parking areas, are preferable to an outright ban or limit on the number of operations. A limit on the number of operations and/or weight of operations must be based on an analysis of pavement life using known pavement design capacity, actual load-bearing capacity, and actual condition. That analysis can be performed with the AAS-100 Pavement Design Software, based on Advisory Circular (AC) 150/5320-6D, available on the FAA Airports web site. An analysis is also required to assess the load-carrying capacity of existing bridges, culverts, in-pavement light fixtures, and other structures affected by the proposed traffic. Such structures are generally not capable of supporting a single load application above design limits, and may preclude any operations by heavier aircraft unless other taxi routes can be specified. Guidance for those evaluations is stated in AC 150/5320-6D.

6. The airport operator may avoid any issue of reasonable, nondiscriminatory access to the airport by accommodating current operations and bringing pavement up to the standard for the current use of the airport as the condition of the pavement requires.

7. This policy applies only to pavement weight-bearing capacity and pavement condition, and does not apply to geometric airport design standards.

8. This policy applies only to the purpose of protecting an airport operator's investment in pavement, and is not a substitute for noise restrictions. If there is no showing of need to protect pavement life, or the limit on airport use appears motivated by interest in mitigating noise without going through processes that exist for such restrictions, an attempt to limit aircraft by weight will be considered unreasonable. The FAA notes that there are a few existing noise rules that include weight categories, generally adopted before ANCA and the AAIA were enacted. Issues arising under those rules will be addressed on a case-by-case basis.

Examples

Airport operators may experience demand for use of the airport by aircraft that weigh more than the design load-bearing capacity of the airport

pavement. In some cases that demand can adversely affect pavement condition. Ideally the airport operator should accommodate demand by upgrading facilities. If that option is not practical, the airport operator can permit reasonable access by these aircraft, while avoiding adverse effects on existing pavement, by regulating the number and maximum weight of operations on a prior-permission-required basis. The number and maximum weight of operations permitted would vary according to the specific circumstances at each airport, including:

- Pavement load-bearing capacity.
- The mix of aircraft operating at the airport. The heavier the aircraft, the fewer operations it takes to have an effect on pavement life.
- Seasonal effects on pavement strength, for example wet or dry subgrade conditions or very low or high pavement temperatures.

The following scenarios are not recommendations but simply examples of limitations that might be appropriate in particular circumstances. Local conditions may require more complex solutions. An engineering analysis will be required in each case.

Scenario 1

The airport pavement is designed to 60,000 lb. dual-wheel load. Pavement design and soil support conditions are known. Operations up to 60,000 lb. are unrestricted, and the issue is how many flights should be permitted above that weight.

The airport receives frequent operations by several aircraft types at 70,000 lb., and occasional operations at 105,000 lb., but very few operations by other aircraft types in between those weights.

Reference to AC 150/5320-6D shows that on an annual basis up to xxx operations at 70,000 lb. and xx operations at 105,000 lb. together would have no measurable effect on the life of the pavement, but more operations at either weight would begin to shorten pavement life.

The operator could require prior permission for operations above 60,000 lb. Permission would be granted on a first-come first-served basis, for xx (xxx/52) operations per week up to 70,000 lb. and for x (xx/52) operations per week up to 110,000 lb.

Scenario 2

The airport pavement is designed to 100,000 lb., with dual-wheel gear configuration. Pavement design and soil support conditions are known.

Most operations at the airport are well under 100,000 lb., but the airport receives regular operations by various types of aircraft at weights from 100,000 lb. up to 135,000 lb. Operations up to 100,000 lb. are unrestricted, and the issue is how many flights should be permitted above that weight.

Reference to AC 150/5320-6D shows that on an annual basis various assortments of operations above 100,000 lb. can operate without measurable effect on the life of the pavement. However, there is no single "right" combination, because more operations at one weight will reduce the number that can be permitted at another weight. Also, each flight at the heavier end of the scale, e.g., 135,000 lb., has a disproportionately adverse effect equal to several flights at the lower end of the scale, e.g., just above 100,000 lb.

There may be many ways to allocate limited operating rights for the various types of aircraft that would use the airport over time, while controlling the maximum cumulative stress on the airport's pavement. One way would be to allocate operating permission by "points" rather than by number of operations. While the numbers actually used would need to be validated using AC 150/5320-6D, something like the following could be used:

Each operation 100,001 lb. to 110,000 lb.; 1 point.

Each operation 110,001 lb. to 120,000 lb.; 2 points.

Each operation 120,001 lb. to 130,000 lb.; 4 points.

Each operation 130,001 lb. to 140,000 lb.; 6 points.

If AC 150/5320-6D indicated that no combination of operations equal to an annual usage of 1200 points would have an adverse effect on pavement life, then the airport operator could allocate 23 points a week with no adverse effects.

The operator would require prior permission for operations above 100,000 lb. Permission would be granted on a first-come first-served basis, until the weekly allocation of points was assigned.

Issued in Washington, DC on June 20, 2003.

David L. Bennett,

Director, Airport Safety and Standards.

[FR Doc. 03-16462 Filed 6-30-03; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

DEPARTMENT OF INTERIOR

National Park Service

Membership In the National Parks Overflights Advisory Group

AGENCIES: National Park Service and Federal Aviation Administration.

ACTION: Notice.

SUMMARY: By Federal Register notice published on April 28, 2003, the National Park Service (NPS) and the Federal Aviation Administration (FAA), asked interested persons to apply to fill a vacant position representing aviation interests on the National Parks Overflights Advisory Group (NPOAG). This notice informs the public of the person selected to fill that vacancy on the NPOAG.

FOR FURTHER INFORMATION CONTACT:

Barry Brayer, Executive Resource Staff, Western Pacific Region Headquarters, 15000 Aviation Blvd., Hawthorne, CA 90250, telephone: (310) 725-3800, Email: Barry.Brayer@faa.gov, or Howie Thompson, Natural Sounds Program, National Park Service, 12795 W. Alameda Parkway, Denver, Colorado, 80225, telephone: (303) 969-2461; Email: Howie_Thompson@nps.gov.

SUPPLEMENTARY INFORMATION:

Background

The National Parks Air Tour Management Act of 2000 (the Act) was enacted on April 5, 2000, as Public Law 106-181. The Act required the establishment of the advisory group within 1 year after its enactment. The NPOAG was established in March 2001. The advisory group is comprised of a balanced group of representatives of general aviation, commercial air tour operations, environmental concerns, and Native American tribes. The Administrator and the Director (or their designees) serve as ex officio members of the group. Representatives of the Administrator and Director serve alternating 1-year terms as chairman of the advisory group.

The advisory group provides "advice, information, and recommendations to the Administrator and the Director—

(1) on the implementation of this title [the Act] and the amendments made by this title;

(2) on commonly accepted quiet aircraft technology for use in commercial air tour operations over a national park or tribal lands, which will receive preferential treatment in a given air tour management plan;

AIRPORTREPORT EXPRESS

Volume 13, No. 54

American Association of Airport Executives

July 9, 2003

AAAE'S INTERACTIVE EMPLOYEE TRAINING TECHNOLOGY WINS U.S. PATENT

The U.S. Patent Office has awarded a patent to AAAE, protecting the technology the association developed and incorporates in its Interactive Employee Training (IET) System. Issuance of the patent validates the unique combination of computer, customization and interactive digital video that are provided in the technology.

The IET system, which has trained more than 41,000 airport employees, falls under the protection of U.S. Patent Number 6,589,055.

The IET is the only automated training system that combines full-screen digital video, interactive computer-based training/testing and an application service provider (ASP). Created in response to specific requests from airports and federal regulatory agencies, the digital video format allows an airport to anticipate changes as new or revised federal regulatory requirements are mandated or as new facilities are constructed at the airport. Programs are filmed on-site at the airport, thereby creating a familiar training background for employees, tenants and contractors.

The ASP automatically records and tracks individual training records. AAAE, through the use of two Internet

Service Providers (ISPs), manages and protects this data, which is stored in secure, redundant databases. The training records are backed up daily, so that an airport's training records are safe and available in real time, around the clock, to authorized airport personnel through any web-enabled device.

AAAE President Charles Barclay said, "The achievement of winning the association's first patent belongs to the highly skilled AAAE staff, but the real beneficiaries are our airport members. Receiving this patent means that the association will be able to continue devoting the resources needed to produce customized training that is so important to our members. It also protects the value of this intellectual property for our members' future benefit."

AAAE delivered the first IET system to Reagan Washington National Airport on Dec. 29, 2000. Since then, 18 airports have ordered the IET system to train their employees on subjects ranging from security access to driving on the airfield. The IET system is eligible for both passenger facility charge (PFC) and Airport Improvement Program (AIP) funding.

TSA SIGNS LOIs FOR INLINE BAGGAGE SYSTEMS

The Transportation Security Administration (TSA) on Monday signed Letters of Intent for Dallas Fort Worth International, Boston Logan International and Seattle-Tacoma International to help defray the costs of installing permanent explosives detection systems (EDS) as part of inline baggage screening systems.

Seattle-Tacoma will receive \$159 million, Dallas Fort Worth will receive \$104 million and Boston Logan will receive \$87 million, subject to the availability of funds.

The three airports are the first to enter into these arrangements with the TSA. The agency said it will sign similar financial arrangements with several more airports within the next few weeks. As part of these agreements, the TSA will pay 75 percent of permitted costs over a three- to four-year period, while the airports agree to cover the remaining costs.

Permitted capital improvement costs include preliminary site preparations, structural reinforcement to support new equipment, electrical work, heating, air conditioning and other environmental improvements, as well as conveyor belts, tables and physical enhancements necessary to

operate an inline system.

TSA Administrator James Loy stated, "These agreements will give airports the resources they need to meet the security challenges they face in the post-September 11th world. Last year, TSA made a commitment to provide assistance to airports. By signing these Letters of Intent, TSA is once again following through on its commitments."

INTERNATIONAL TRAFFIC DECLINES IN MAY

Preliminary international passenger traffic figures for
(continued on following page)

TUNE IN TO AVIATION NEWS TODAY...

...on Friday, July 11, for an interview with House Transportation and Infrastructure Ranking Member Jim Oberstar (D-Minn.) on the aviation agenda in the 108th Congress.

For information on AAAE's ANTN Dicast, contact Pat Raker at (703) 824-0500, Ext. 125. For information on custom training videos, contact Jim Martin at Ext. 166.



May show a 21 percent drop over May 2002, with Asia Pacific carriers experiencing a 50.8 percent decline, the worst performance among all of the regions, according to the International Air Transport Association (IATA).

North American carriers, particularly those with significant exposure to trans-Pacific routes, were hurt by Severe Acute Respiratory Syndrome (SARS), as well as the lingering impact of the Iraq War and the economic slump, IATA said.

Freight traffic continued to grow, however. In May, freight traffic experienced a 3 percent increase in volume and during the first five months of the year is ahead of 2002 by 8.7 percent, IATA said.

IATA said passenger traffic figures were expected to rebound in June.

TSA EXPANDS SELECTEE CHECKPOINT PROGRAM

The Transportation Security Administration (TSA) announced that Portland (Ore.) International, beginning July 9, will participate in the Selectee Checkpoint Program at the ABC security checkpoint.

Airlines using the ABC security checkpoint include Alaska, Frontier, Horizon, Northwest and Southwest.

The Selectee Checkpoint Program transfers the screening of selectees from aircraft boarding gates to security checkpoints where screening equipment and personnel are concentrated. Currently, 260 airports participate in the program, the TSA said.

FAA TO UPDATE AIRPORT PAVEMENT POLICY

FAA on July 7 issued a notice of proposed policy and signaled the agency's intent to update existing policy on the use of weight-based airport access restrictions as a means of protecting airfield pavement.

In an effort to prolong the usefulness of airport pavement, some airports have implemented restrictions on use of the airport by aircraft above the designed pavement load-bearing weight. In an effort to apply a uniform national policy to such actions, FAA is publishing for comment a draft policy on weight-based access restrictions for those airports that receive Airport Improvement Program (AIP) funds.

While airports must comply with AIP Grant Assurance 22, FAA said it also expects airports to protect pavement from damage or early deterioration before the end of the expected 20-year life span. In AIP guidance issued in 2002, FAA found that the airport could limit use above the design weight of the pavement, but also could allow some operations above that weight.

AAAE's Operations, Safety and Planning Committee will draft comments on behalf of the association's

SEN. BYRON DORGAN (D-N.D.) TO SPEAK AT LEGISLATIVE ISSUES CONFERENCE

Sen. Byron Dorgan (D-N.D.) will speak July 22 at the AAAE/ACI-NA Summer Legislative Issues Conference in Washington, D.C.

Other speakers at the conference include House Transportation, Treasury and Independent Agencies Appropriations Subcommittee Chairman Ernest Istook (R-Okla.) and Rep. Shelley Berkley (D-Nev.), a member of the House aviation subcommittee.

The conference also will include panels with Capitol Hill staff on FAA reauthorization, fiscal year 2004 appropriations for the Department of Homeland Security and DOT, and aviation economics.

The conference will take place July 21-22 at Lowes L'Enfant Plaza Hotel in Washington, D.C. For further program information, contact Bess Stembler, AAAE/ACI-NA Legislative Affairs, at (703) 824-0504, or e-mail bess.stembler@airportnet.org. For registration information, contact Amy Peters, ACI-NA, at (202) 293-8500, or e-mail apeters@aci-na.org.

members to submit to FAA. Forward any comments to AAAE's Craig Williams at craig.williams@airportnet.org.

FAA's draft policy is available at www.airportnet.org/regulatory/new.htm.

FUNDING MAY HAMPER ERIE RUNWAY PROJECT

Pennsylvania Gov. Edward Rendell (D) last week sent letters to Sen. Arlen Specter (R-Pa.) and the entire Pennsylvania congressional delegation regarding the status of Erie International Airport's planned runway expansion.

Rendell noted that in 1999 the airport received priority status for the expansion project. After several years of negotiations, local officials finally agreed upon the terms of the replacement of Powell Avenue.

"Last month it appeared that all sides reached the proper conclusion; Powell Avenue would be moved using federal dollars and the airport expansion could go forward," Rendell wrote. "Unfortunately, Congressman Phil English (R-Pa.) recently informed the Erie news media that funding was suddenly in doubt."

Rendell concluded that, "The airport expansion is a project that absolutely must continue for the good of Pennsylvania's economy."

AIR WISCONSIN TO OPERATE UNITED EXPRESS

United said it has reached agreement with Air Wisconsin
(continued on following page)

AIRPORT REPORT Express is published twice-weekly by the American Association of Airport Executives
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to operate United Express Service. In addition to its existing fleet, the amended agreement also provides Air Wisconsin the opportunity to place an additional 20 regional jets in the United Express program in Washington, D.C., Chicago and Denver.

NEW ORLANDO SANFORD FLIGHTS PLANNED

TransMeridian Airlines on Aug. 28 will institute nonstop service between Orlando Sanford International and both Northwest Chicagoland (Ill.) Regional Airport and Toledo (Ohio) Express Airport. Flights will operate daily, except Tuesdays, using 172-seat 727-200 equipment.

SE AIRLINES TO ADD PENNSYLVANIA FLIGHTS

Lehigh-Northampton (Pa.) Airport Authority officials announced that the airport's Las Vegas service, currently operated by Interstate Jet, will be replaced by new service operated by Southeast Airlines, effective July 12. The flights will be operated via Rickenbacker (Ohio) International Airport.

AMERICAN WINS PREDATORY PRICING CASE

A federal appeals court has upheld a lower court decision that found American Airlines had not engaged in predatory pricing to defend its monopoly position at Dallas Fort Worth International.

The Justice Department sued American in 1999 for allegedly engaging in predatory pricing on several Dallas routes. However, a lower court ruled in favor of the airline. The appeals court agreed, saying that Justice had used a flawed method to evaluate American's pricing strategy.

Gary Kennedy, general counsel and senior vice president for American, stated, "It has been our position all along that we compete appropriately on all of our routes, and we are pleased to put this chapter behind us."

WILLIAM PAYNE & ASSOC. JOINS USCTA

William E. Payne & Associates is the newest member of the U.S. Contract Tower Association (USCTA).

For information on USCTA membership, contact Spencer Dickerson at (703) 824-0500, Ext. 130, or e-mail sdickerson@airportnet.org.

TERMINAL CONCESSIONS WORKSHOP HELD

More than 110 airport and aviation officials from the U.S., Canada and 15 countries throughout Europe participated in the Terminal Concessions Development and Public/Private Sector Partnership Workshop, June 29-July 2, in Dubrovnik, Croatia.

Leading the AAAE delegation was AAAE Chair Bonnie Allin, A.A.E., president/CEO of the Tucson Airport Authority, and International Association of Airport Executives (IAAE) Chair Jim Bennett, A.A.E., president/CEO of the Metropolitan Washington Airports Authority.

Tonci Peovic, general manager of Dubrovnik International Airport, served as the host of the conference.

Participants included U.S. Reps. Bud Cramer (R-Ala.) and Kay Granger (R-Texas), House Appropriations Committee staff members John Blazey and Therese McAuliffe, Croatia Airlines Chairman Ivan Misetic, officials from several U.S. embassies in the region, and several members of the Bulgarian Parliament.

Session topics covered innovative terminal concessions programs and case studies in Europe and the U.S., the new world of aviation security and concessions/retail operations, creative terminal concessions programs from the perspective of airport concessions and technology firms, airport public/private sector partnership case studies, and the airline perspective on current airport/airline relations.

AAAE expresses appreciation to the following airports and companies for their financial support of the conference: Dubrovnik International Airport, Croatia Airlines, HMS Host, Zagreb International Airport, Split International Airport, Copenhagen International Airport, Metropolitan Washington Airports Authority, Salzburg Airport W.A. Mozart, Tucson Airport Authority, Scott Architects Associates, Airport Consulting Vienna, Hewlett Packard, DM Airport Developers, LPA Group, Creative Host Services, L-3 Communications Security Systems, The Boeing Co., Ynimog DaimletChrysler, International Currency Exchange (ICE), Parsons Brinckerhoff (PB) Aviation and Avis Rent-A-Car System.

PORTLAND JETPORT HOSTS AAAE WORKSHOP

Portland (Maine) International Jetport hosted its first AAAE onsite Emergency Response and Family Assistance Workshop June 9-11.

Fifty-five airport emergency responders and more than 70 participants were involved in the airport's tabletop exercise. Course instructors Lt. Dennis Leon and James Kelly, A.A.E., of Dallas Fort Worth International shared best practices for implementing incident command systems and the significance of family assistance planning at airports. The course also featured an MD-88 aircraft familiarization tour.

Workshop sponsors were Oshkosh Truck Corp., Lifesaving Resources, Headlight Audio Visual, Delta Air Lines, Inc., Foam Pro, Inc., Grainger, Scott USA, and Clean Harbors. Portland International will host a similar workshop next year. For more information, contact Jeff Bourk, C.M., at (207) 842-9296, or e-mail at jpbourk@aol.com.

American Association of Airport Executives

AIRFIELD HAZARDOUS MATERIALS SAFETY WORKSHOP

August 10-12, 2003 • Washington, D.C. • Mtg. #030706

The American Association of Airport Executives (AAAAE) is pleased to announce the first Airfield Hazardous Materials Workshop designed for airport and airline personnel who handle hazardous materials on the airfield or respond to hazardous materials incidents.

PURPOSE

The proper handling of hazardous materials is of critical importance to any person working on an airfield. Concerns over terrorism and the use of hazardous materials has gained much attention, and both airport and air carrier personnel are in contact with hazardous materials on a regular basis. Understanding the proper handling of these materials, as well as the proper protocols for dealing with spills or other potential problems, can mean the difference between a safety incident and a catastrophic accident. New rules are being developed for training on the recognition of hazardous materials. Consequently, this workshop will provide airfield and airline personnel with the skills and information needed to safely handle hazardous materials and hazardous material incidents.

TOPICS

The following topics (subject to change) will be covered:

- Emergency Response and Process Safety Management among Air Carriers, the Airport and Hazmat Responders
- Proper Hazmat Storage
- Protecting Yourself When Handling Hazmat
- Material Safety Data Sheets
- Gate Guard Awareness: Multiple Hazmat Entry Points and Undeclared Hazmat
- Proper Labeling of Hazardous Materials
- Hazmat and Terrorism
- Preventing Unauthorized Hazmat on Aircraft
- Hazmat Case Studies

Speakers will include representatives from the NTSB, DOT, FAA and other federal agencies, as well as airport operations/emergency management personnel and airline officials.

All sessions will take place at the Wyndham City Center. The workshop begins with early registration and a welcome reception at 5:30 p.m. on Sunday, August 10, and ends at 12 p.m. on Tuesday, August 12. Registration fees include the welcome reception, two continental breakfasts, one luncheon, coffee and refreshment breaks and all handout materials. Dress for the workshop is business casual. Confirmation of registration will be faxed to all attendees.

For further **program information**, contact **Greg Mamary**, AAAAE, at (703) 824-0500, Ext. 176, or e-mail greg.mamary@airportnet.org. For further **registration information**, contact **Natalie Fleet**, AAAAE, Ext. 132, or e-mail natalie.fleet@airportnet.org.

AGENDA

(subject to change)

SUNDAY, AUGUST 10

5:30-6:30 p.m. Early Registration and Welcome Reception

MONDAY, AUGUST 11

7:45-8:30 a.m. Registration and Continental Breakfast
8:30 a.m.-4:30 p.m. Workshop Sessions*

TUESDAY, AUGUST 12

8-8:30 a.m. Continental Breakfast
8:30-11:30 a.m. Workshop Sessions
11:30 a.m.-12 p.m. Course Evaluations and Wrap-up

**includes luncheon and breaks*

REGISTER ON-LINE!

<http://www.airportnet.org/calendar>

To: Airport Commission

ITEM 7 (b)

From: Airport Staff

Subject: **FAA Proposed Policy Regarding Weight-Based Restrictions at Airports**

Date: September 22, 2003

INTRODUCTION

On July 1, 2003, the FAA published a notice in the Federal Register requesting public comment regarding a proposed policy on the use of weight-base airport access restrictions as a means of protecting airfield pavements. The proposed policy, if adopted by the FAA in its present form, could potentially force the City to allow larger/heavier aircraft to use the Airport. This report will provide an overview of the proposed policy and its potential effect on operations at the Airport.

DISCUSSION

To protect and preserve pavement infrastructure, airports throughout the United States restrict access to their facilities based upon the weight-bearing capabilities of the pavement surfaces. Santa Monica Airport for example has a 60,000lb weight restriction – aircraft with gross landing weight's in excess of 60,000 are restricted from operating at the Airport. Airport Pavements are designed to accommodate the loads and frequencies of aircraft expected to use the airport over the period of expected pavement life based upon the existing and forecasted fleet mix of aircraft using the facility at the time the pavement is designed and constructed. The FAA's proposed policy takes the position that it should not be necessary or appropriate to impose aircraft operating

restrictions to protect pavement from occasional operations by aircraft that exceed the published weight restrictions.

The FAA is proposing a national policy regarding local airport weight-based aircraft access restrictions that would also ensure that existing facilities are maximized to accommodate occasional use by overweight aircraft.

The proposed policy:

- States that existing pavement standards provide for a large margin of safety and strength therefore can accommodate a percentage of exceptions to stipulated weight restrictions
- Recommends that operational formulas be developed for airports that will accommodate an appropriate percentage of exceptions to be permitted to use the airport on a weekly basis. It suggests this be on a "first come, first served" basis
- The proposed policy presents two suggested scenarios – 100,000 pound limit (the limit at Teterboro Airport) and 60,000 pound limit (which is Santa Monica's). For Santa Monica it suggests a program of "x" number of aircraft per week of 70,000 pounds and "x" number at 110,000 pounds. The actual number to be determined through studies.
- The proposed FAA policy would require that Airports that want to maintain their existing limit must prove through appropriate engineering studies that their

airside surfaces could not support the exceptions and might be required to make improvements to allow the exemptions.

- The FAA policy proposes to include the airport operator's "motivation" as one of the criteria in its consideration of an airport's proposed restrictions

If the policy were to go into effect:

- Airports will have to provide new or additional engineering studies on the capacity of their airside surfaces and determine percentage of overweight aircraft can be accommodated on a regularly (weekly or monthly) basis – or develop a justification for maintain the current limit.
- Airports would have to develop and manage a slotting or ration program for aircraft over the published weight limitations that would be compliant with FAA policy
- Airports would have to accommodate aircraft that not only exceed the weight limits of the surfaces but would represent a new scale of aircraft for the facilities, geometry and design of the airfield as well as the infrastructure of the airport
- Airports may be required to make pavement improvements to accommodate the policy requirement for exceptions and potentially associated facilities improvements to address the presence of the additional type of aircraft – as noted above

- The demands of the exceptional aircraft in terms of space, turning radius, blast, etc may create conflicts in operations and space for existing smaller aircraft
- The proposed FAA policy would require Airports to accept aircraft of a different scale that would affect their relationship to the community.

FAA's proposed policy, if enacted, would adversely effect the safe operation of the Santa Monica Airport and could potentially expose the City to serious liability and safety-of-life issues. Staff has also spoken with members of the community who have been very interested in the FAA's proposed action, many of whom have submitted their own similar comments to the FAA through the docket management web page. Staff will continue closely monitor the proposed policy and will report back to Airport Commission as appropriate.

- Attachment #1 FAA Notice of Proposed Policy and Request for Comments
- Attachment #2 City of Santa Monica Response
- Attachment #3 City Council Information Item

Prepared by: Bob Trimborn
 Rod Merl

ATTACHMENT – 1 FAA Proposed Policy

The Federal Register

DATES: Comments must be received by August 15, 2003. Comments that are received after that date will be considered only to the extent possible.

ADDRESSES: The proposed policy is available for public review in the Dockets Office, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. The documents have been filed under FAA Docket Number FAA-2003-15495. The Dockets Office is open between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the Nassif Building at the Department of Transportation at the above address. Also, you, may review public dockets on the Internet at <http://dms.dot.gov>. Comments on the proposed policy must be delivered on mailed, in duplicate, to: the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify the docket number "FAA Docket No FAA-2003-15495" at the beginning of your comments.

Commenters wishing to FAA to acknowledge receipt of their comments must include a preaddressed, stamped postcard on which the following statement is made: "Comments to FAA Docket No. FAA-2003-15495." The postcard will be date stamped and mailed to the commenter. You may also submit comments through the Internet to <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: James White, Deputy Director, Office of Airport Safety and Standards, AAS-2, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591, telephone (202) 267-3053.

SUPPLEMENTARY INFORMATION: Airport operators that accept federal airport development grants under the Airport Improvement Program (AIP), 49 U.S.C. 47101 et seq., enter into a standard grant agreement with the FAA. That agreement contains certain assurances, including assurance no. 22, based on the requirement in 49 U.S.C. 47107(a)(1). Grant assurance no. 22 reads, in part:

a. [The sponsor] will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.

At the same time, the FAA expects that airport sponsors will protect airfield pavement from damage or early deterioration. Many airport projects funded with the AIP grants involve pavement. As a result, both the FAA and airport sponsors have a significant investment in airfield pavement, and an interest in assuring that pavement remains in acceptable condition for its design life, normally at least 20 years. The policy of assuring reasonable access to the airport and the interest in protecting the investment in airfield pavement are both extremely important, but is clear that they can potentially work against each other in a particular case.

In February 2002, the Airports Division in an FAA regional office issued a preliminary determination on the ability of a particular airport operator to limit use of the airport according to aircraft weight. In that case the weight limit effectively prohibited operation by aircraft heavier than the aircraft considered in the design of the airport's pavement. The FAA found, in summary, that the airport operator could limit use above the design weight of the pavement, but that some operations above that weight could and

should be permitted, because they would have no measurable effect on the pavement. The FAA has received several questions relating to the policy underlying that determination.

In view of the importance of the policies at stake, we believe it is appropriate to issue more specific guidance on the specific issue of weight-based access restrictions.

The policy proposed in this notice provides more detailed guidance on how the FAA will interpret Grant Assurance No. 22, in cases in which an airport sponsor limits operation by aircraft above a certain weight in order to preserve the integrity of airport pavement. The FAA requests comment on the following statement of policy, and may modify the policy in accordance with comments received on this notice. For any cases presented before a final policy is issued, the FAA will apply the policy as proposed in this notice.

For the above reasons, the FAA proposes to adopt the following policy:

Operating Limitations to Protect Airport Pavements From the Effects of Operations in Excess of Design Weight-Bearing Capacity

1. When designing new airport pavement or rehabilitating existing pavement, airport operators design the pavement to accommodate the loads and frequencies of the aircraft expected to use the airport over the period of expected pavement life. A load-bearing capacity is then assigned to the pavement based upon the most demanding aircraft. Once that pavement is constructed, airport operators have a responsibility to protect the local and Federal investment in the pavement. At the same time, airport operators are encouraged to upgrade airport pavements for forecast increases in aircraft size or operations, or if the number of operations and size of aircraft increase over time beyond what was forecast.
2. Airport pavements are designed to accommodate a finite number of aircraft operations, based on planning forecasts and experience. In most cases it should not be necessary or appropriate to impose aircraft operating restrictions to protect pavement from occasional operations of aircraft which exceed the published pavement strength. Even in the exceptional case in which the mix of aircraft types using the pavement becomes heavier over time, a limitation on maximum weight of aircraft may not be warranted. It is the nature of airport pavement to begin a gradual deterioration process as soon as it is opened to traffic. A pavement designed for a specified number of operations by an aircraft type of a particular weight will not be immediately affected by some number of operations by heavier aircraft, up to a point. In general, each 10% increase in weight of the most demanding aircraft will decrease the number of design operations by 20-25%. The original load-bearing capacity of pavement may be increased by surface overlays or other pavement rehabilitation techniques. Therefore, some number of operations by aircraft exceeding the design load-bearing capacity of airport pavement by some degree will ordinarily not have a sufficient impact to shorten its useful life. (The Airport/Facility Directory introductory language notes that "[m]any airport pavements are capable of supporting limited operations with gross weights of 25-50% in excess of the published figures.").
3. However, where the airport operator reasonably believes that actual damage or excessive wear has resulted or would result from operation of aircraft of a particular weight (and particular gear configurations), then the airport operator can limit those operations to the extent necessary to prevent that damage or excessive wear.
4. The design load-bearing capacity of pavement is a guide to the probability of adverse effects on pavement life. Design load-bearing capacity is demonstrated by planning and engineering documents created at the time the pavement was designed, constructed, rehabilitated or improved. Testing to determine actual load-bearing capacity may be appropriate or necessary where design information is

unavailable or does not appear to represent actual current condition of the pavement.

5. Any action by the airport operator to limit operations above the design load-bearing capacity must be reasonable and unjustly discriminatory, and would require evidence of the effect of operations at certain weights on the pavement. Such limitations, if determined to be necessary, could include:

- * Requiring particular taxi routes and parking areas for aircraft above a certain weight, to avoid weaker areas;

- * Requiring prior permission for operation by aircraft above the design load-bearing capacity of the pavement (see examples in Exhibit 1);

- * Permitting operations of such aircraft only up to a certain weight; * Prohibiting all operations by aircraft exceeding a weight at which even a small number of operations would significantly reduce pavement life.

- * Assigning heavy aircraft a particular runway (through agreement with Air Traffic Control) if operationally feasible.

Operating procedures, such as requiring use of designated taxiways and ramp parking areas, are preferable to an outright ban or limit on the number of operations. A limit on the number of operations and/or weight of operations must be based on an analysis of pavement life using known pavement design capacity, actual load-bearing capacity, and actual condition. That analysis can be performed with the AAS-100 Pavement Design Software, based on Advisory Circular (AC) 150/5320-6D, available on the FAA Airports web site. An analysis is also required to assess the load-carrying capacity of existing bridges, culverts, in-pavement light fixtures, and other structures affected by the proposed traffic. Such structures are generally not capable of supporting a single load application above design limits, and may preclude any operations by heavier aircraft unless other taxi routes can be specified. Guidance for those evaluations is stated in AC 150/5320-6D.

6. The airport operator may avoid any issue of reasonable, nondiscriminatory access to the airport by accommodating current operations and bringing pavement up to the standard for the current use of the airport as the condition of the pavement requires.

7. This policy applies only to pavement weight-bearing capacity and pavement condition, and does not apply to geometric airport design standards.

8. This policy applies only to the purpose of protecting an airport operator's investment in pavement, and is not a substitute for noise restrictions. If there is no showing of need to protect pavement life, or the limit on airport use appears motivated by interest in mitigating noise without going through processes that exist for such restrictions, an attempt to limit aircraft by weight will be considered unreasonable. The FAA notes that there are a few existing noise rules that include weight categories, generally adopted before ANCA and the AAIA were enacted. Issues arising under those rules will be addressed on a case-by-case basis.

Examples

Airport operators may experience demand for use of the airport by aircraft that weigh more than the design load-bearing capacity of the airport pavement. In some cases that demand can adversely affect pavement condition. Ideally the airport operator should accommodate demand by upgrading facilities. If that option is not practical, the airport operator can permit reasonable access by these aircraft, while avoiding adverse effects on existing pavement, by regulating the number and maximum weight of

operations on a prior-permission-required basis. The number and maximum weight of operations permitted would vary according to the specific circumstances at each airport, including:

- * Pavement load-bearing capacity.

- * The mix of aircraft operating at the airport. The heavier the aircraft, the fewer operations it takes to have an effect on pavement life.

- * Seasonal effects on pavement strength, for example wet or dry subgrade conditions or very low or high pavement temperatures.

The following scenarios are not recommendations but simply examples of limitations that might be appropriate in particular circumstances. Local conditions may require more complex solutions. An engineering analysis will be required in each case.

Scenario 1

The airport pavement is designed to 60,000 lb. dual-wheel load. Pavement design and soil support conditions are known. Operations up to 60,000 lb. are unrestricted, and the issue is how many flights should be permitted above that weight.

The airport receives frequent operations by several aircraft types at 70,000 lb., and occasional operations at 105,000 lb., but very few operations by other aircraft types in between those weights.

Reference to AC 150/5320-6D shows that on an annual basis up to xxxx operations at 70,000 lb. and xx operations at 105,000 lb. together would have no measurable effect on the life of the pavement, but more operations at either weight would begin to shorten pavement life.

The operator could require prior permission for operations above 60,000 lb. Permission would be granted on a first-come first-served basis, for xx (xxxx/52) operations per week up to 70,000 lb. and for x (xx/52) operations per week up to 110,000 lb.

Scenario 2

The airport pavement is designed to 100,000 lb., with dual-wheel gear configuration. Pavement design and soil support conditions are known.

Most operations at the airport are well under 100,000 lb., but the airport receives regular operations by various types of aircraft at weights from 100,000 lb. up to 135,000 lb. Operations up to 100,000 lb. are unrestricted, and the issue is how many flights should be permitted above that weight.

Reference to AC 150/5320-6D shows that on an annual basis various assortments of operations above 100,000 lb. can operate without measurable effect on the life of the pavement. However, there is no single "right" combination, because more operations at one weight will reduce the number that can be permitted at another weight. Also, each flight at the heavier end of the scale, e.g., 135,000 lb., has a disproportionately adverse effect equal to several flights at the lower end of the scale, e.g., just above 100,000 lb.

There may be many ways to allocate limited operating rights for the various types of aircraft that would use the airport over time, while controlling the maximum cumulative stress on the airport's

pavement. One way would be to allocate operating permission by "points" rather than by number of operations. While the numbers actually used would need to be validated using AC 150/5320-6D, something like the following could be used:

Each operation 100,001 lb. to 110,000 lb.; 1 point.

Each operation 110,001 lb. to 120,000 lb.; 2 points.

Each operation 120,001 lb. to 130,000 lb.; 4 points.

Each operation 130,001 lb. to 140,000 lb.; 6 points.

If AC 150/5320-6D indicated that no combination of operations equal to an annual usage of 1200 points would have an adverse effect on pavement life, then the airport operator could allocate 23 points a week with no adverse effects.

The operator would require prior permission for operations above 100,000 lb. Permission would be granted on a first-come first-served basis, until the weekly allocation of points was assigned.

ATTACHMENT – 2 SMO Response



Santa Monica Airport
Office of the Airport Director
3223 Donald Douglas Loop South, #2
Santa Monica, California 90405-3279
Phone #: (310) 458-2251
Fax#: (310) 391-9996

August 12, 2003

Docket Management System
U.S. Department of Transportation
Room Plaza 401
400 Seventh Street, SW
Washington, DC 20590-0001

Re: FAA Docket No. FAA-2003-15495
Proposed Policy On Weight-Based Airport Regulations

Dear Sirs:

The City of Santa Monica, owner and operator of the Santa Monica Airport, hereby submits the following comments on the policy proposed by the Federal Aviation Administration (FAA) as to weight-based restrictions.

The proposed policy would, if adopted, effectively prohibit airport operators from adopting and applying clear and definite access rules based upon aircraft weight. Instead, airport operators would effectively be compelled to allow access to some, undefined number of overweight aircraft. The policy should be rejected for several reasons. They are listed below.

1. Weight-based restrictions are an eminently reasonable, nondiscriminatory and necessary means of preserving runway integrity and airport safety.

The FAA, airport operators, pilots, and the aircraft industry all recognize the importance of preserving runway integrity. Indeed, the FAA's Proposed Policy explicitly acknowledges the need to protect airfield pavement from damage and deterioration. Moreover, the Proposed Policy acknowledges that operating limitations protect airport pavement from the damage caused by operations in excess of pavement capacity. Thus, it is obvious that such limitations do not constitute "discrimination" as that term is commonly understood; they merely protect against physical damage to pavement, which would degrade the facility and put safety at risk. Thus, the efficacy, and indeed necessity, of such restrictions is not in question. Instead, the issue is whether federal policy should mandate access by aircraft exceeding load-bearing capacity.

2. Weight-based restrictions based upon pavement capacity provide clear standards which afford certainty and predictability to airport users and operators.

In addition to preserving safety by protecting the integrity of airport pavement, weight-based regulations are highly advantageous because they guarantee clear and predictable access standards. The present policy, which allows weight-based access standards, affords certainty to the flying public. Aircraft owners, operators and passengers know which airports are available.

They can make their plans accordingly. This predictability is a crucial element of any effective transportation system and should be maintained through by continuing the present policy of allowing weight-based access restrictions.

3. The proposed policy would adversely impact the traveling public by making airport access uncertain and creating the appearance of disparate treatment.

Under the proposed policy an aircraft owner, operator or passenger would not have the certainty necessary to plan travel. The FAA has proposed limited access for overweight aircraft based on first-come, first-served or point systems. These systems would not be conducive to advance travel planning. Moreover, if they were, that is if advance "reservations" for access were available, that would risk either the actuality or the appearance of favoritism and therefore might well run afoul of the prohibition against discrimination. The only way to fulfill the needs of the traveling public for certainty and to avoid the appearance (and perhaps the reality) of discrimination is to make access rules uniformly applicable to all aircraft within particular weight classes.

4. The proposed policy would also adversely impact airport owners and operators by forcing them to either discriminate between similarly situated aircraft or continually upgrade their facilities to avoid weight-based restrictions.

The proposed policy would be a nightmare for airport operators. Because it would, in effect, mandate allowing exceptions to weight-limitations, airport operators would be required to create and administer a system of exceptions. This would be very expensive and time consuming. Dissatisfaction and complaints from those aircraft operators who did were not allowed access, as exceptions to weight limits would be inevitable. Time and resources would have to be spent addressing these realities. Faced with these realities, airport operators and owners' only other option would be continually upgrading facilities to avoid weight-based restrictions. This is not a viable option for most owners and operators of smaller airports. It is certainly not an option for local public entities which are expected to balance competing demands for resources and to retain local control of local resources.

In conclusion, Santa Monica opposes the proposal and urges the FAA stay the course. Weight-based access restrictions preserve safety, ensure equal access to similar aircraft, promote certainty in the transportation system, conserve local resources and promote good relations between airport operators and users. They must be preserved.

Sincerely,

Bob Trimborn
Airport Manager

ATTACHMENT-3 City Council Information Item

INFORMATION ITEM

TO: Mayor and City Council

FROM: City Staff

SUBJECT: FAA Proposed Policy Regarding Weight-Based Exemptions at Airports

INTRODUCTION

On July 1, 2003, the FAA published a notice in the Federal Register requesting public comment regarding a proposed policy on the use of weight-base airport access restrictions. The proposed policy, if adopted by the FAA in its present form, could potentially force the City to allow larger/heavier aircraft to use the Airport.

DISCUSSION

To protect and preserve pavement infrastructure, airports throughout the United States restrict access to their facilities based upon the weight-bearing capabilities of the pavement surfaces. Santa Monica Airport for example has a 60,000 lb weight restriction. Aircraft with gross landing weights in excess of 60,000 lb are restricted from operating at this Airport.

Airport pavements are designed to accommodate the loads and frequencies of aircraft expected to use the airport over the period of expected pavement life. This is based upon the existing and forecasted fleet mix of aircraft using the facility at the time the pavement is designed and constructed. The FAA's recently proposed policy takes the

position that it should not be necessary or appropriate to impose aircraft operating restrictions to protect pavement from occasional operations by aircraft which exceed the published weight restrictions.

According to the FAA, its proposed policy is intended to provide a national uniformity with regard to local airport weight-based aircraft access restrictions to insure such restrictions are not overly "discriminatory" to various classes of aircraft. The proposed policy would create the following:

- Santa Monica Airport would have to develop and manage a complex slotting program for aircraft over the published weight limitations – with many potential conflicts and possible litigation.
- Santa Monica Airport would be faced with having to accommodate aircraft that exceed the weight limits of the Airport's pavement surfaces. In addition further adverse impact is likely to be experienced by inadequate Airport operating facilities, geometry and infrastructure to accommodate larger aircraft ground movements.
- Santa Monica Airport would be forced to accept aircraft of a much larger scale which would likely have a negative impact upon the residential and commercial land uses surrounding the Airport.

Staff provided a response to the FAA request for comments that included the following points:

- Weight-based restrictions are an eminently reasonable, nondiscriminatory and necessary means of preserving airport safety and runway integrity.
- Weight-based restrictions based upon pavement capacity provide clear standards which afford certainty and predictability to airport users and operators.
- The proposed policy would adversely impact the traveling public by making airport access uncertain and creating the appearance of disparate treatment.
- The proposed policy would also adversely impact airport owners and operators by forcing them to either discriminate between similarly situated aircraft or continually upgrade their facilities to avoid weight-based restrictions.

Staff has been in contact with the American Association of Airport Executives, as well as other general aviation airports such as Teterboro in New Jersey, and they also submitted comparable comments. Staff has also spoken with members of the community who have been very interested in the FAA's proposed action, many of whom have submitted their own similar comments to the FAA through the docket management web page. The Airport Commission will be provided a report at its next meeting on September 22, 2003.

Staff will continue to closely monitor the proposed policy and will report back to Council as appropriate.

Prepared by: Jeff Mathieu, Airport Director
Bob Trimborn, Airport Manager
Roderick Merl, Senior Administrative Analyst

Director of the FDIC's Division of Supervision and Consumer Protection (DSC) authority to make and publish in the Federal Register minor technical amendments to the Guidelines in this appendix, in consultation with the other appropriate federal banking agencies, to reflect the practical experience gained from implementation of this part. * * *

* * * * *

By order of the Board of Directors.

Dated at Washington, DC, this 8th day of November, 2005.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 05-23310 Filed 11-25-05; 8:45 am]

BILLING CODE 6714-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2003-15471; Airspace Docket No. 03-AWA-6]

RIN 2120-AA66

Modification of the Minneapolis Class B Airspace Area; MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the current Minneapolis, MN, Class B airspace area to contain large turbine-powered aircraft during operations to the new Runway 17/35 and to address an increase in aircraft operations to and from the Minneapolis-St. Paul International (Wold-Chamberlain) Airport (MSP). The FAA is taking this action to enhance safety and improve the management of aircraft operations in the Minneapolis terminal area. Further, this action supports the FAA's national airspace redesign goal of optimizing terminal and en route airspace areas to reduce aircraft delays and improve system capacity.

DATES: *Effective Date:* 0901 UTC, February 16, 2006.

FOR FURTHER INFORMATION CONTACT: Steve Rohring, Airspace and Rules, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

SUPPLEMENTARY INFORMATION:

Background

On November 24, 2003, the FAA published in the Federal Register a notice of proposed rulemaking (NPRM)

to modify the Minneapolis Class B airspace area (68 FR 65859). The FAA proposed the action due to a significant growth in aircraft operations and the construction of a new runway (Runway 17/35) to accommodate the growth. The proposed modifications were designed to contain large turbine-powered aircraft within the MSP Class B airspace area and included expanding the lateral dimensions of the existing MSP Class B airspace area as well as increasing the vertical limits from 8,000 feet above mean sea level (MSL) to 10,000 feet MSL.

Subsequent to the issuance of the NPRM, the FAA's further analysis of airspace requirements revealed that additional airspace (beyond and below that airspace proposed in the NPRM) will be needed to contain large turbine-powered aircraft conducting approaches to the new Runway 35 within the MSP Class B airspace area. To provide the public an opportunity to comment on the additional required airspace, the FAA issued a supplemental notice of proposed rulemaking (SNPRM) that included a new area F (70 FR 43803). Area F reflects the additional airspace that the FAA determined will be needed, as well as changes suggested by the Air Line Pilots Association, International (ALPA) and the National Business Aviation Association, Inc. (NBAA) in response to the NPRM (see "Discussion of Comment" below).

Discussion of Comments

In response to the NPRM, the FAA received three comments.

The Aircraft Owners and Pilots Association (AOPA) expressed a concern that the dimensions of the MSP Class B airspace area should conform to the unique needs of users rather than conform to a national standard. They also expressed a concern that raising the vertical limits from 8,000 feet MSL to 10,000 feet MSL would "pose a serious operational limitation to pilots wishing to over fly" the MSP Class B airspace area. AOPA also expressed a desire for charted visual flight rules (VFR) flyways in the MSP terminal area.

The FAA has determined that some aircraft may have to fly farther or at lower or higher altitudes to remain clear of the modified MSP Class B airspace area; however, this is necessary to separate them from large turbine-powered aircraft arriving and departing MSP. The management of aircraft operations to the new runway will require several new arrival vector areas between the altitudes of 7,000 feet and 10,000 feet MSL over the MSP terminal area. Specifically, aircraft that currently

proceed directly to MSP and then enter an east/west downwind pattern will be vectored to a downwind pattern via northbound and southbound paths located to the east and west of MSP. This change in traffic flow is needed to accommodate three arrival streams rather than the current practice of using two arrival streams. As a result of these new procedures, approximately 900 high-performance aircraft will be vectored to join arrival streams as far as 30 nautical miles (NM) from MSP between the altitudes of 7,000 and 10,000 feet MSL on a daily basis.

In response to AOPA's comment pertaining to VFR flyways, the FAA agrees that charted VFR flyways could minimize the impact on aircraft that choose to circumnavigate the MSP Class B airspace area. However, because VFR flyways are not addressed in a Class B rulemaking action, the FAA plans to develop and institute VFR flyways for the MSP terminal area through a separate, non-rulemaking process.

ALPA and the NBAA expressed concern that the "southeast cut-out" of the proposed Area E would result in aircraft not being contained in Class B airspace when operating on the extended final approach course to the new Runway 35. They suggest reducing the size of the cut-out by changing the western boundary of the proposed cut-out from the Gopher 170 radial to the Gopher 160 radial. The FAA agrees with this comment and has adopted the suggested modification.

The FAA received the following comments in response to the SNPRM:

AOPA again expressed a concern that raising the vertical limits of the MSP Class B airspace area from 8,000 feet MSL to 10,000 feet MSL would "pose a serious operational limitation to those pilots wishing to over fly" the MSP Class B airspace area and reiterated their desire for charted VFR flyways. They also mentioned that the ad hoc committee recommendations did not fully address their concerns. The FAA's response to AOPA's comments remains as stated previously in this document.

The FAA also received comments from two pilots in response to the SNPRM. They commented that they practice aerobatic maneuvers at and below 8,000 feet MSL approximately 15 NM west of the Flying Cloud Airport (between the cities of Belle Plaine and Cologne). They request that the FAA exclude the area that they practice in from the MSP Class B airspace area. While the FAA acknowledges that aerobatic operations in the area may be impacted, the FAA is not able to accommodate this request because the area between Belle Plaine and Cologne

lies within the vector area for aircraft arriving MSP via a standard terminal arrival route from the southwest. Aircraft using this arrival route will operate as low as 7,000 feet MSL over the area between Belle Plaine and Cologne (approximately 25 to 28 NM west-southwest of MSP).

The coordinates for this airspace docket are based on North American Datum 83. Class B airspace areas are published in paragraph 3000 of FAA Order 7400.9N, Airspace Designations and Reporting Points, dated September 1, 2005, and effective September 15, 2005, which is incorporated by reference in 14 CFR 71.1. The Class B airspace area listed in this document would be published subsequently in the order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying the MSP Class B airspace area. Specifically, this action (depicted on the attached chart) expands the upper limits of Areas A, B, C, and D from 8,000 feet MSL to and including 10,000 feet MSL; expands the lateral limits of Area D to the northwest and southeast of MSP; adds an Area E within 30 NM of the I-MSP DME (excluding areas to the north and south of MSP); and adds an area F to the south of MSP.

The FAA is taking this action to provide protection for the increased operations at MSP including operations to the new Runway 17/35. Additionally, this action enhances safety, improves the management of aircraft operations in the MSP terminal area, and supports the FAA's national airspace redesign goal of optimizing terminal and en route airspace areas to reduce aircraft delays and improve system capacity.

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act requires agencies to analyze the economic effect of regulatory changes on small businesses and other small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this final rule: (1) Will generate benefits that justify its circumnavigation costs and is not a "significant regulatory action" as

defined in the Executive Order; (2) is not significant as defined in the Department of Transportation's Regulatory Policies and Procedures; (3) will not have a significant impact on a substantial number of small entities; (4) will not constitute a barrier to international trade; and (5) will not contain any Federal intergovernmental or private sector mandate. These analyses are summarized here in the preamble, and the full Regulatory Evaluation is in the docket.

This final rule will modify the Minneapolis, MN, Class B airspace area. The final rule will reconfigure the sub-area lateral boundaries, and raise the altitude ceiling in certain segments of the airspace.

The final rule will generate benefits for system users and the FAA in the form of enhanced operational efficiency and simplified navigation in the MSP terminal area. These modifications will impose some circumnavigation costs on operators of non-compliant aircraft operating in the area around MSP. However, the cost of circumnavigation is considered to be small. Thus, the FAA has determined this final rule will be cost-beneficial.

Final Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principal, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis (RFA) as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 Act provides that the head of the agency may so certify and an RFA is not required. The certification must include a statement providing the factual basis

for this determination, and the reasoning should be clear.

This final rule may impose some circumnavigation costs on individuals operating in the Minneapolis terminal area, but the final rule will not impose any costs on small business entities. Operators of general aviation aircraft are not considered small business entities. As such, they are not included when performing a regulatory flexibility analysis. Flight schools are considered small business entities. However, the FAA assumes that they provide instruction in aircraft equipped to navigate in Class B airspace given they currently provide instruction in the Minneapolis terminal area. Therefore, these small entities should not incur any additional costs as a result of the final rule. Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Federal Aviation Administration certifies this rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States (U.S.). Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards.

The final rule will only have a domestic impact and will not affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the U.S.

Unfunded Mandates Assessment

The Unfunded Mandate Reform Act of 1995 (the Act) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of \$100 million or more (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector. The FAA currently uses an inflation-adjusted value of \$120.7 million in lieu of \$100 million.

This final rule does not contain such a mandate. The requirements of Title II do not apply.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES, AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the FAA Order 7400.9N, Airspace Designations and Reporting Points, dated September 1, 2005, and effective September 15, 2005, is amended as follows:

Paragraph 3000—Class B Airspace.

* * * * *

AGL MNB Minneapolis, MN [Revised]
Minneapolis-St. Paul International (Wold-Chamberlain) Airport (Primary Airport)
(Lat. 44°53'00" N., long. 93°13'01" W.)
Gopher VORTAC
(Lat. 45°08'45" N., long. 93°22'24" W.)
Flying Cloud VOR/DME
(Lat. 44°49'33" N., long. 93°27'24" W.)
Minneapolis-St. Paul International (Wold-Chamberlain) Airport DME Antenna (I-MSP DME)
(Lat. 44°52'28" N., long. 93°12'24" W.)

Boundaries

Area A. That airspace extending upward from the surface to and including 10,000 feet MSL within a 6-mile radius of the I-MSP DME.

Area B. That airspace extending from 2,300 feet MSL to and including 10,000 feet MSL within an 8.5-mile radius of the I-MSP DME, excluding Area A previously described.

Area C. That airspace extending from 3,000 feet MSL to and including 10,000 feet MSL within a 12-mile radius of the I-MSP DME, excluding Area A and Area B previously described.

Area D. That airspace extending from 4,000 feet MSL to and including 10,000 feet MSL within a 20-mile radius of the I-MSP DME and including that airspace within a 30-mile radius from the Flying Cloud 295° radial and from the Gopher 115° radial clockwise to the

Flying Cloud 115° radial, excluding Area A, Area B, and Area C previously described.

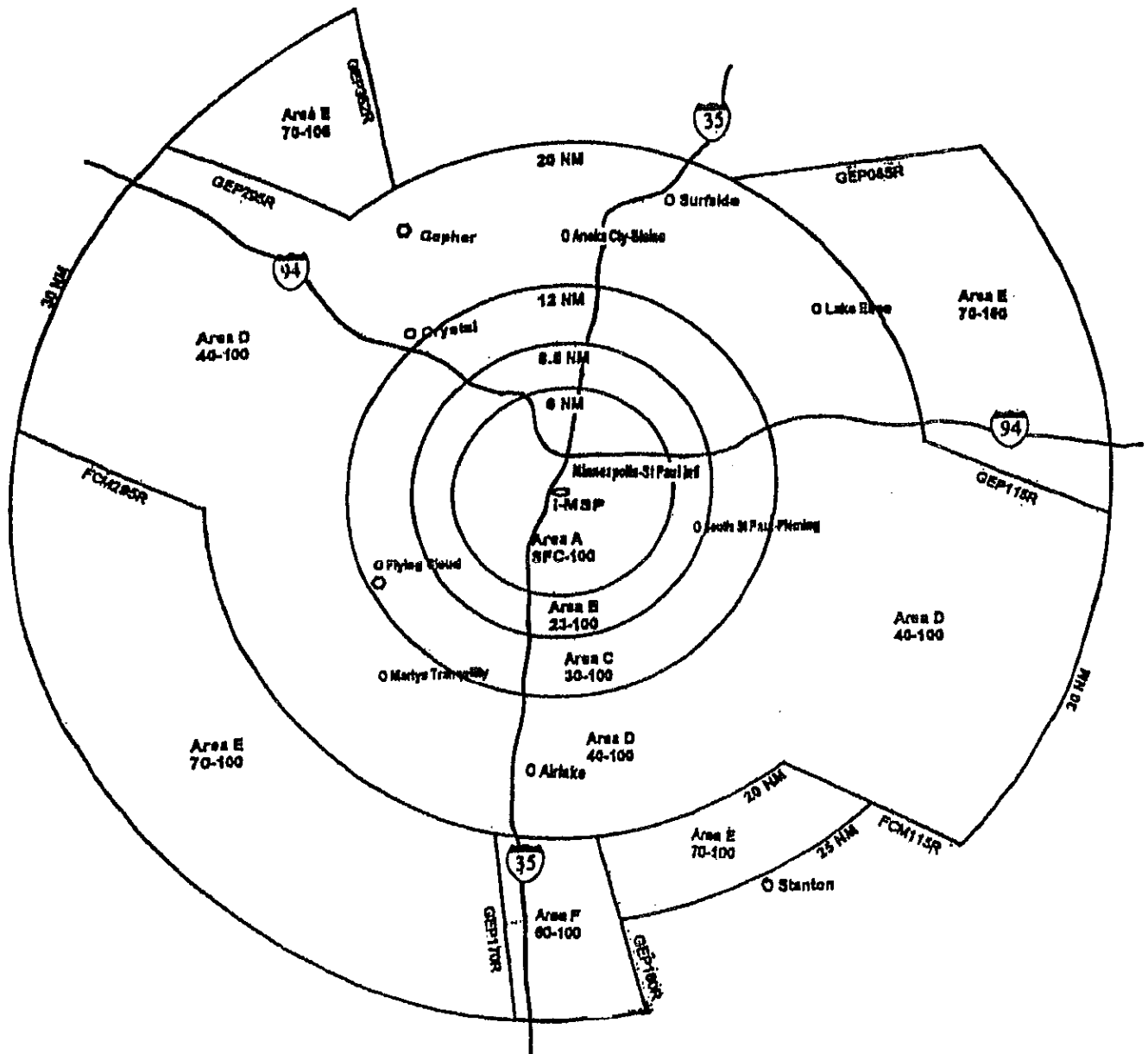
Area E. That airspace extending from 7,000 feet MSL to and including 10,000 feet MSL within a 30-mile radius of the I-MSP DME from the Gopher 295° radial clockwise to the Gopher 352° radial, and from the Gopher 085° radial clockwise to the Gopher 115° radial, and from the Flying Cloud 115° radial clockwise to the Gopher 160° radial, and from the Gopher 170° radial clockwise to the Flying Cloud 295° radial excluding that airspace between a 25-mile radius and a 30-mile radius of the I-MSP DME from the Flying Cloud 115° radial clockwise to the Gopher 160° radial, and excluding Area A, Area B, Area C, and Area D previously described.

Area F. That airspace extending from 6,000 feet MSL to and including 10,000 feet MSL within a 30-mile radius of the I-MSP DME from the Gopher 160° radial clockwise to the Gopher 170° radial, excluding Area A, Area B, Area C, and Area D previously described.

* * * * *

Issued in Washington, DC, on November 16, 2005.

Edith V. Parish,
Manager, Airspace and Rules.
BILLING CODE 4910-13-P



Minneapolis Class B Expansion.

[PR Doc. 05-23308 Filed 11-25-05; 8:45 am]
BILLING CODE 4910-13-C

Talktrans/Zero Expansion Comments
Concerning the FEIS for Flying Cloud Airport
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January 9, 2006

Environmental Quality Board
John Larsen- jon.larsen@state.mn.us

Dear John,

On behalf of talktrans/zeroexpansion please make these comments available to all EQB members prior to the EQB meeting on January 19, 2006 and include them in the agenda/minutes for the January 19, 2006 EQB Meeting concerning the FEIS for Flying Cloud Airport.

This is an open letter to members of the Environmental Quality Board and the Metropolitan Airport Commission concerning the Final Environmental Impact Statement (FEIS) for the Flying Cloud Airport.

The new information presented here impacts Flying Cloud Airport and its vicinity and has never been addressed in the EIS or the FEIS for Flying Cloud. In light of this information, we expect that the FEIS for Flying Cloud will not be approved by the EQB and will be sent back to MAC to address these issues.

The FAA's new definition of Minneapolis Class B Airspace

The FAA made a new Final Ruling on an amendment for the Modification of the Minneapolis Class B Airspace Area, which first became effective September 15, 2005. The amendment became effective November 16, 2005 and was reported in the Federal Register on November 28, 2005 (Vol. 70, No. 227, pages 71233-71236, Rules and Regulations, attached). This is new, previously unavailable, information pertaining to the Flying Cloud Airport and it will have an impact on the community.

To accommodate the new Runway 17/35 at MSP the FAA recently modified the Minneapolis Class B airspace area (effective September 15, 2005). Subsequent to that modification, FAA further analysis revealed that additional airspace would be needed to contain large turbine powered aircraft (commercial air passenger and cargo jets) conducting approaches to the new Runway 35. The FAA has amended the Airspace Designation first dated and approved on September 1, 2005 and now has approved the amendments as of November 16, 2005. This is just to reiterate that the information presented here is a new amendment to the Minneapolis Class B airspace and unforeseen by the Flying Cloud FEIS.

What the new amendment from the FAA has done is to add another 2,000 feet to the ceiling of the arrival stream for approximately 900 large aircraft landing at MSP daily. This is an action

that will enhance safety and operations at MSP, but it will also encroach on Flying Cloud Airport operations forcing more General Aviation aircraft to fly under the Class B airspace.

The new Minneapolis Class B airspace will have significant air and noise pollution impacts on Flying Cloud Airport and its immediate vicinity. Those impacts have obviously not been addressed in the EIS and consequently make the entire FEIS for Flying Cloud inadequate.

The arrival stream for MSP increases the ceiling for the MSP arrival stream from 8,000 to 10,000 feet in the Flying Cloud area. That alone, according to the AOPA, would "pose a serious operational limitation to those pilots wishing to over fly" the MSP Class B airspace area. Obviously, the AOPA is referring to smaller GA (General Aviation) aircraft that are not suited to or efficient to fly at altitudes over 10,000 feet. So, those aircraft would be forced and/or more prone to fly below the MSP Class B airspace or around it. The floor of the new MSP Class B airspace is at 3,000 feet over Flying Cloud and is now the new "ceiling" for GA aircraft operating out of Flying Cloud – until they can fly out from under the Class B airspace.

The FAA has essentially lowered the ceiling to 3,000 feet over Flying Cloud and forced many GA aircraft that would normally over fly MSP and Flying Cloud to fly under the 3,000-foot "ceiling". Common sense would dictate that forcing more aircraft down under this "ceiling" is going to negatively affect Flying Cloud Airport, airport operations and the vicinity around Flying Cloud. Force-feeding more aircraft to fly under this 3000-foot ceiling will increase noise and pollution levels in the surrounding community. This is what we have mentioned in the past as part of the cumulative effect of MSP and Flying Cloud sharing – or in this case – dividing up - airspace. Restricting the available airspace to GA aircraft and then forcing more GA aircraft into the lower altitudes will adversely affect noise and air pollution levels at Flying Cloud and its vicinity. These effects were never addressed in the current FEIS for Flying Cloud. The effects of 900 jets daily using a corridor over Flying Cloud to land and leave from MSP were also never figured into the cumulative effects of the Flying Cloud expansion. The absence of this information makes the FEIS for Flying Cloud inadequate.

An argument could also be made that this newly expanded flight corridor makes Flying Cloud a "less convenient" airport for GA pilots since FCM is in area C and over run by a major corridor for "900 high performance aircraft" daily - essentially shutting off any GA operations over 3,000 feet. The operating space of Flying Cloud over the 3,000-foot level has been severely marginalized. Expanding an airport like Flying Cloud that has been so thoroughly overrun by a neighboring airport (MSP) seems to be based more on wishful thinking rather than on good information – especially since the operations of Flying Cloud have been in decline for over 10 years and show no sign of turning around – except in the wishful thinking of the aviation industry.

Whether or not our evaluation of the FAA's new definition of Minneapolis Class B Airspace is considered correct or not is not the issue. The issue is that the airspace surrounding Flying Cloud has been redefined, affecting the operations of all General Aviation aircraft out of Flying Cloud and affecting access to Flying Cloud. These issues were never considered in the FEIS. Additional, cumulative effects at Flying Cloud coming from the 900 large aircraft daily approaching and leaving MSP should also be reconsidered. The redefined Minneapolis Class B airspace has not been considered in the FEIS and it should be – otherwise the FEIS is inadequate.

Please see the attached document from the Federal Register from November 28, 2005.

Attachment:

- 11-28-05 Federal Register FAA Docket 15471, Modification of the Minneapolis Class B Airspace Area; MN

The FAA's new policy on Pavement Based Weight Restrictions

Formerly, the strength of a runway (measured in weight bearing capacity) was one of the factors that determined the size of the aircraft that could use a runway. That is no longer the case. Nationwide, the aircraft-runway pavement weight bearing capacity restrictions (PWBR) that were formerly in place have been changed to reflect the FAA's new policy, which eliminates aircraft-runway restrictions based on pavement weight bearing capacities. The FAA has ruled that PBWR's are discriminatory and should not be used to restrict aircraft from using runways. For example, this allows a 100,000 lb plane formerly restricted from a 60,000 lb weight bearing capacity runway because of its weight, to now land on that runway.

Contrary to the FAA position, MAC and the City of Eden Prairie have an agreement that limits the size of aircraft at Flying Cloud to the weight bearing capacity of the runway – which will be built for a 60,000 lb capacity. The FAA has not signed off on the Agreement between the City of Eden Prairie and MAC. This ambiguity allows the FAA to tacitly allow the City of Eden Prairie and MAC to retain their agreement (limiting FCM to aircraft below the 60,000 pounds the runways will be built for) and it allows the FAA to retain its new, nationwide understanding that allows aircraft, weighing far more than pavement based weight capacities would formerly allow them, to use runways across the country. If the FAA signed off on the current Eden Prairie/MAC Agreement, it would establish a new, nationwide precedent allowing airports across the country to discriminate aircraft on the basis of the weight bearing capacity of their runways. The more likely scenario is that the FAA will wait until the runway has been expanded and then rule that the Eden Prairie/MAC Agreement cannot contain any provisions restricting aircraft from Flying Cloud because of the weight bearing capacity of the runways.

In light of the Eden Prairie/MAC Agreement and the FAA's refusal to sign it, it must be assumed that aircraft weighing far more than the 60,000 lbs the runway was designed for and the FEIS did its research for, will be allowed to use the Flying Cloud airport. These larger aircraft were not incorporated in the EIS models and studies for noise pollution or air pollution at Flying Cloud. This new, FAA nationwide policy is not reflected in the EIS models and research and makes the Flying Cloud FEIS inadequate.

Attachments:

- FAA Proposed Policy Regarding Weight Based Restrictions at Airports, Letter dated 09-22-03
- Federal Register 07-01-03 FAA Docket 2003 – 15495 Weight Based Restrictions at Airports: Proposed Policy
- Airport Report Express 07-09-03, page 2 article, FAA To Update Airport Pavement Policy

Thank you for your consideration,

Talktrans/Zero Expansion

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transportationtalk@yahoo.com

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METROPOLITAN AIRPORTS COMMISSION

Minneapolis-Saint Paul International Airport
6040 - 28th Avenue South • Minneapolis, MN 55450-2799
Phone (612) 726-8100



January 11, 2006

Mr. Jon Larsen
Minnesota Environmental Quality Board
300 Centennial Office Building
658 Cedar Street
St. Paul, MN 55155

RE: ZERO EXPANSION/TALKTRANS COMMENTS ON THE FLYING CLOUD AIRPORT
(FCM) FINAL ENVIRONMENTAL IMPACT STATEMENT (FEIS)

Dear Mr. Larsen,

On January 4, 2006 Ms. Vicki Pellar Price representing Talktrans and Mr. Mark Michelson representing Zero Expansion (hereafter referred to as Zero Exp./Talktrans) sent an e-mail to the Metropolitan Airports Commission (MAC) and the members of the Minnesota Environmental Quality Board (MEQB) challenging the adequacy of the Flying Cloud Airport (FCM) Final Environmental Impact Statement (FEIS).

Zero Exp./Talktrans contend that the FEIS does not address two issues; (1) the Federal Aviation Administration's (FAA) redesign of the Class B Airspace around Minneapolis/St. Paul International Airport (MSP)¹ and (2) FAA's policy on pavement-based weight restrictions. Zero Exp./Talktrans argue that the MEQB should disapprove the FEIS based on its failure to adequately evaluate the environmental impacts of these two issues.

Considering existing FCM operational trends in and around MSP airspace, current MSP operational trends over the City of Eden Prairie (post Runway 17/35 opening – October 2005), and the realities of the Class B Airspace redesign, the Zero Exp./Talktrans environmental impact arguments based on the MSP Class B Airspace redesign are not valid. Additionally, given FAA's involvement with the development of, and amenable position regarding the 60,000 lb. runway weight bearing capacity provision throughout the FCM FEIS development process, subsequent FAA policy on runway weight limits should not impact the previously established 60,000 lb. jet weight limit at FCM.

The following provides further detail supporting the above underlined conclusions.

FAA's MSP Class B Airspace Redesign

For decades the extent of the Class B Airspace around MSP has extended to 20 nautical miles (nm) around the airport. The un-shaded area on **Attachment 1** depicts the existing Class B Airspace around MSP.

The following dimensions detail the existing Class B Airspace around MSP as depicted in the un-shaded area on Attachment 1:

¹ The new MSP Class B Airspace will become effective in February 2006.

- Area A – extends horizontally from the airport out to six nm, and extends vertically from the ground to 8,000 feet Mean Sea Level (MSL).
- Area B – extends horizontally from 6 nm to 8.5 nm, and extends vertically from 2,300 feet MSL to 8,000 feet MSL.
- Area C – extends horizontally from 8.5 nm to 12 nm, and extends vertically from 3,000 feet MSL to 8,000 feet MSL.
- Area D – extends horizontally from 12 nm to 20 nm, and extends vertically from 4,000 feet MSL to 8,000 feet MSL.

FCM is located approximately 11 miles to the southwest of MSP. As such, FCM is located approximately one mile within the outer edge of Area C and is located approximately 9 miles from the outer extent of the existing MSP Class B Airspace represented by the outer edge of the un-shaded area on Attachment 1. Approximately two-thirds of the City of Eden Prairie is located in Area C, including FCM, with the remaining third of the city located well within Area D. The existing MSP Class B Airspace over FCM begins at 3,000 feet MSL and extends upward to 8,000 feet MSL.

For the past four years the FAA has been in the process of coordinating a change to the Class B Airspace architecture around MSP. The two fundamental catalysts for the airspace redesign around MSP are, (1) to ensure adequate traffic management capabilities effectively accommodating traffic on the new Runway 17/35 at MSP and increases in overall traffic to and from the airport, and (2) to ensure optimization of the terminal airspace around MSP reducing delays and contributing to the overall National Airspace System (NAS) capacity.

The Class B Airspace modification proposal has been published for public comment on more than three occasions in the past four years including two notices in the Federal Register within the past two years. In summary, the new Class B Airspace extends the airspace around MSP to 30 nm almost all the way around MSP and expands the ceiling of the airspace from 8,000 feet MSL to 10,000 feet MSL. There are two areas where the airspace does not fully extend to 30 nm. One area is located north of MSP, where the extent of the airspace remains at 20 nm, and the other area is located to the southeast of MSP where the extent of the airspace is at 25 nm. **Attachment 1** depicts the modifications to the Class B Airspace around MSP in gray. The changes will become effective in February 2006.

The following points detail the changes in the Class B Airspace around MSP as depicted on Attachment 1 in gray:

- The ceiling of the Class B Airspace is raised from 8,000 feet MSL to 10,000 feet MSL in all areas
- Area D is extended to 30 nm to the northwest and southeast of MSP off the ends of the parallel runways.
- Area E sections are added to the southeast, northwest, northeast and southeast, extending in most cases horizontally from 20 nm to 30 nm and vertically from 7,000 feet MSL to 10,000 feet MSL. However, in the case of the small section of Area E to the southeast of MSP the horizontal extent is from 20 nm to 25 nm this is due to an accommodation for glider plane operations at the Stanton Airport. Additionally, the cut out in Area E to the north of MSP was done to accommodate glider plane operations at the Benson Airport.
- Area F is added to the south of MSP extending horizontally from 20 nm to 30 nm and vertically from 6,000 feet MSL to 10,000 feet MSL.

Specifically, the above modifications provide the following:

- Enhanced positive control of air traffic entering and departing the terminal area airspace around MSP for the purpose of landing or departing the airport while ensuring adequate aircraft separation with those aircraft that are not operating in and out of MSP.
- An airspace design that is consistent with present parallel runway aircraft arrival operations to the northwest and southeast of MSP and adequately accommodates arrival operations from the south of MSP to the new Runway 35.

It is important to note that the Class B Airspace redesign is simply modifying the existing airspace to better conform to existing operational patterns, not modifying existing operational patterns to conform to a new airspace structure. The Class B Airspace changes do not require jets to fly in different locations from where they operate today. It merely encompasses their current flight patterns and procedures in more tightly FAA-controlled airspace to enhance safety by separation of aircraft.

As detailed above, there will be no changes to the Class B airspace within 20 miles of MSP with the exception of the additional 2,000 feet on top of the Class B Airspace. As such, the only change over the City of Eden Prairie and FCM is an increase in the airspace ceiling from 8,000 feet MSL to 10,000 feet MSL. As detailed below, this will have no effect on the City of Eden Prairie.

In analyzing available FAA radar flight track data for FCM in the Fourth Quarter 2005, all of the aircraft that departed FCM and transitioned the Class B Airspace in close proximity to MSP were at an average altitude of 3,888 feet MSL. This means the aircraft were in contact and coordinated with FAA Approach Control and operating within the Class B Airspace. Moreover, there were no FCM operations that flew in close proximity to MSP outside the Class B Airspace above 8,000 feet MSL. As such, in the Fourth Quarter 2005 there were no FCM aircraft that were climbing to 8,000 feet or greater to transition over MSP for the purpose of avoiding contact with Approach Control. The data also suggests that FCM aircraft wishing to transition the MSP Class B Airspace without contacting Approach Control are flying around the airspace below the designated Class B floor. This has been a longstanding practice and is not something that will be exacerbated by the MSP Class B Airspace redesign.

In the context of MSP operations and the existing Class B Airspace, in comparing November and December 2005 (post Runway 17/35 opening) to November and December 2004, MSP operations over the City of Eden Prairie have reduced by 5.9%. The average daily number of MSP arrival and departure operations over the City of Eden Prairie in November through December 2004 was approximately 266, decreasing to approximately 250 in November through December 2005.

In summary, considering the above, the data does not support the assertion by Zero Exp./Talktrans that aircraft operating in and out of FCM, or in the vicinity of Eden Prairie today, will be forced to lower altitudes or rerouted following the implementation of the new Class B Airspace in February 2006. Moreover, in terms of MSP operations, the MSP Class B Airspace modification is not expected to negatively impact the City of Eden Prairie. These conclusions are consistent with the FAA's Categorical Exclusion Declaration on January 24,

2003, which was prepared for the MSP Class B Airspace redesign in accordance with FAA Order 1050.1 – *Policies and Procedures for Considering Environmental Impacts*.

FAA Policy on Aircraft Weight Limits Based on Runway Weight Bearing Capacity

In 1978 the MAC adopted Ordinance No. 51 limiting jet aircraft use of FCM to aircraft of 20,000 lbs. or less maximum takeoff weight, except in cases of emergency and/or those operations required by Federal or state law.

During the FCM EIS process discussion ensued regarding Ordinance 51 in the context of FAA's concern with providing reasonable access to the airport, the noise characteristics of newer, larger aircraft and allowing tenants to benefit from the extended runway in a manner that does not change the overall characteristic of the airport or poses significant increased noise impacts on the surrounding community.

The FCM Airport Advisory Commission discussed the issues in detail, and the topic was subsequently discussed by the FCM EIS Noise Mitigation Committee ultimately resulting in a December 2002 agreement between the City of Eden Prairie and the MAC. The agreement details various commitments on behalf of the MAC and the City of Eden Prairie related to the expansion of FCM. The MAC requirements included the amendment of Ordinance No. 51, which occurred in January 2003 when MAC adopted Ordinance No. 97.

The Ordinance increases the jet weight limit at FCM to a maximum Gross Takeoff Weight of 60,000 lbs. The limit is based on the weight bearing capacity of the runways at FCM, which includes consideration of the pavement design and the load and frequency of operations that are placed on the pavement based on the existing and forecast fleetmix at FCM.

On July 1, 2003 the FAA published a notice of proposed rule making in the Federal Register dealing with weight based access restrictions at airports as a means of protecting airfield pavements. In short, the policy provides a formula framework that can be applied to allow an appropriate number of aircraft weighing greater than the published runway weight capacity to operate at an airport during a given period of time. Specific elements of the formula would require additional study on an airport-by-airport basis. To-date FAA has not finalized this policy.

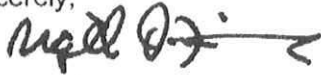
Throughout the development of the elements included in the FCM EIS, including Ordinance No. 97, MAC has worked with the FAA in the development of the aircraft weight provision. To date, MAC has received no formal FAA objection related to the weight limit that was imposed at FCM with the enactment of Ordinance No. 97 in January 2003.

Considering the above, there is no reason to conclude that the recent FAA policy, which was developed after the implementation of Ordinance No. 97, impacts the 60,000 lb. jet weight restriction at FCM. Regardless of future policy changes of the FAA the provisions of the FEIS will remain in effect.

I hope this information is helpful in EQB's review of the Zero Exp./Talktrans information. We believe that these issues have been addressed and should not affect the EQB's determination of adequacy. If you have further questions please feel free to contact me.

Page 5
January 11, 2006

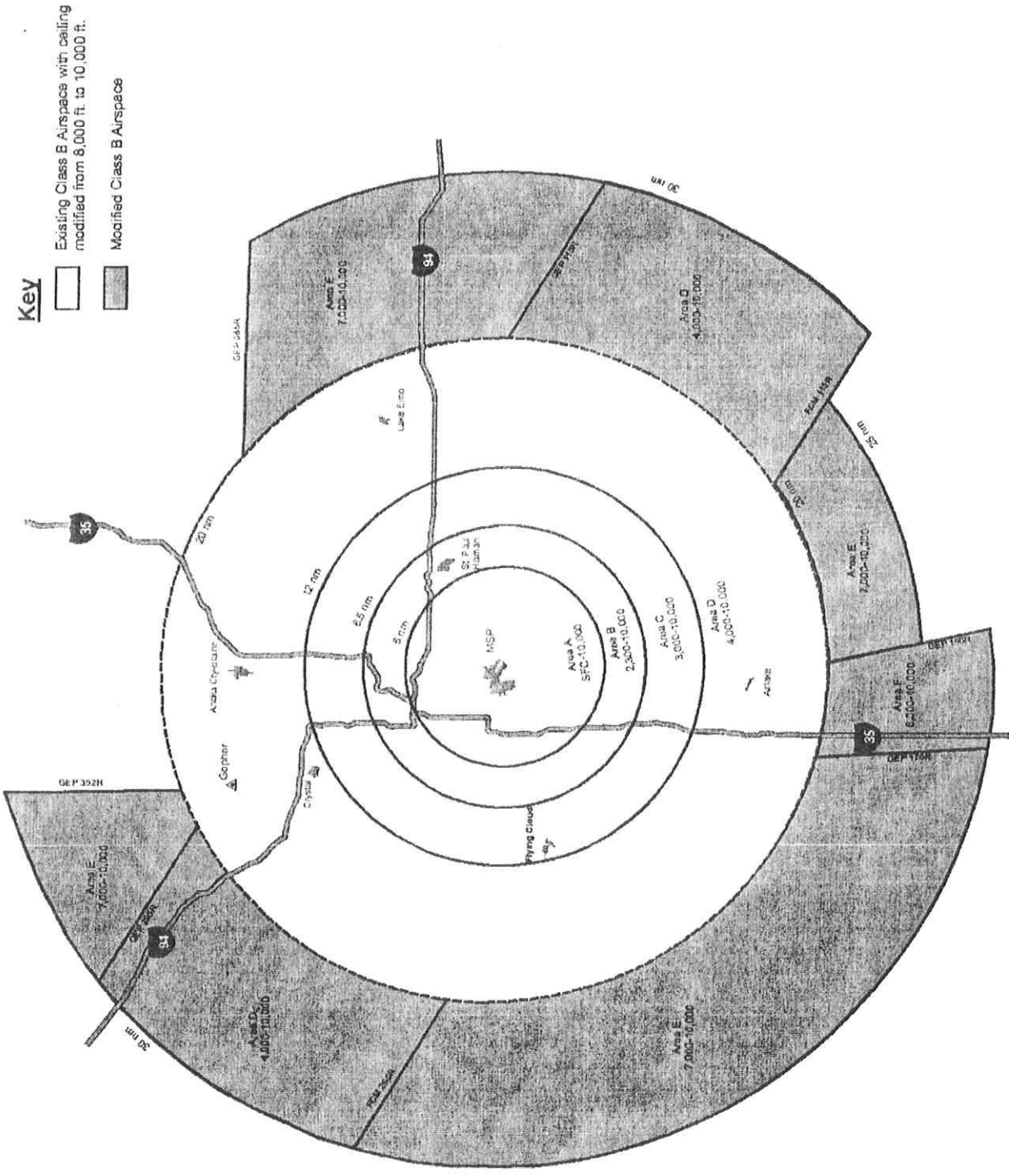
Sincerely,

A handwritten signature in black ink, appearing to read "Nigel D. Finney", with a long horizontal stroke extending to the right.

Nigel D. Finney
Deputy Executive Director
Planning and Environment

cc: MAC Commissioners
Ms. Vicki Pellar Price – Talktrans
Mr. Mark Michelson – Zero Expansion

Attachment 1



Talktrans/Zero Expansion Comments
Concerning the FEIS for Flying Cloud Airport and
the MAC letter of response from Nigel Finney
www.talktrans.com
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talktrans1@mn.rr.com
PH: 952-937-6288
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Jon Larsen
Minnesota Environmental Quality Board
300 Centennial Office Building
658 Cedar Street
St Paul, MN 55155

January 17, 2005

Dear Mr. Larsen,

We are in receipt of the MAC letter of response from Nigel Finney (dated Jan 11, 2006) to our EQB request (dated Jan. 9, 2006) to delay any approval of the Flying Cloud FEIS scheduled for the EQB meeting on January 19, 2006.

Due to the extent of our responses and MAC's response we would like to request some time at the upcoming meeting to request that the EQB delay any activity at all on the Flying Cloud FEIS until the members of the EQB have had a sufficient amount of time to review these documents.

We submit that after reviewing MAC's response, there is no new information provided here by MAC that would conclude that they have resolved their omissions in the FEIS. Neither the new FAA policy related to aircraft weight limits based on runway weight bearing capacity (PBWR) nor the issue of the redesign of Class B Airspace around MSP are fully disclosed in the EIS or FEIS for the expansion of Flying Cloud Airport (FCM).

In regard to Pavement Weight Bearing Restrictions (PBWR), we are aware that MAC and the FAA were in communication while the Agreement between Eden Prairie and MAC was being prepared. Tacit "approval" by the FAA is not official, sanctioned, legal approval by the FAA. As articles and excerpts from articles on the following pages show, the FAA has not allowed PWBR's to remain at any other airport in the nation. As these same articles show, the current and working, FAA nationwide policy is that airports cannot discriminate against heavier aircraft because of the weight bearing capacity of their runways. The Flying Cloud FEIS did not include heavier aircraft and their cumulative environmental impact in the fleet mix for the proposed Flying Cloud runway extension and it should have included heavier aircraft, because the current FAA policy says you cannot exclude them (For example, see Santa Monica article following, at Santa Monica airport if you restrict aircraft, an airport's grant assurances will be removed). Because you cannot exclude heavier aircraft and the FEIS does not include heavier aircraft, the FEIS for Flying Cloud is inadequate and should not be approved.

In regard to Minneapolis Class B Airspace, the Airspace around Flying Cloud and MSP has been marginalized for smaller aircraft. MAC has failed to incorporate those changes in the FEIS for the expansion of FCM. MAC's response to the EQB fails to explain how operators using the Flying Cloud Airport would be impacted. According to the AOPA the Class B airspace redesign represents a significant change in the airspace and General Aviation (GA) must make significant changes to comply with this change. A change in GA traffic would definitely change the traffic in and around Flying Cloud airport, which only serves GA traffic. Those changes are not included in the current FEIS for Flying Cloud. How significant the airspace changes are to Flying Cloud and how much they impact Flying Cloud cannot be known unless they are included in the FEIS for Flying Cloud. Because the FEIS does not include the changes to Minneapolis Class B Airspace, and the effects of the new design are not known or even discussed in the FEIS, the FEIS for Flying Cloud is inadequate and should not be approved.

The following comments and articles are provided to support our positions on these two issues.

The FAA's new policy on Pavement Based Weight Restrictions (PBWR)

On three separate occasions in 2005, our organization sent MAC Data Practices requests related to aircraft weight limitation changes represented in the new FAA policy in question that has impacted other general aviation airports around the country. Despite our many attempts to try to gain information that would help us understand how MAC would be able to uphold their commitment in the Final Agreement with the city of Eden Prairie to a 60,000lb PBWL, we were denied any access to data.

The Department of Administration's Commissioner, Dana, B. Badgerow in an Advisory Opinion filed by the Admin Nov 29, 2005, stated that MAC did not comply with Minnesota Statutes, Chapter 13, with regard to three separate requests for access to data our organization requested related to the FAA policy [Docket No. FAA-2003-15495] Pavement Based Weight Limits at General Aviation airports.

The opinion #05-038 can be found at:
<http://www.ipad.state.mn.us/opinions/2005/05038.html>

The following quoted material demonstrates that this FAA policy allows planes heavier than the allowable pavement based weight to have access which was not included in the FEIS for the expansion of FCM. This new policy makes it impossible for MAC to uphold their commitment to limit the weight bearing capacity to 60,000lbs.

1. FAA Policy states that airports must allow some operations above allowable weights. This is not reflected in the FEIS.

"The FAA cited a case in February 2002 when it issued a preliminary finding that an airport operator could limit access to the facility based upon aircraft weight, but "could and should" permit some operations involving heavier aircraft. Teterboro Airport has fought to keep out the Boeing Business Jet - which has a maximum ramp weight of 171,500 pounds - based on weight. "
The Weekly of Business Aviation

July 7, 2003

The American Association of Airport Executives (AAAE) told FAA in its comments that opening an airport to larger aircraft has implications in areas other than pavement integrity, such as airport design. "The FAA should allow the sponsor to manage the airport in such a manner that allows for a full consideration of the needs of the entire airport, not just the physical design limitations of the pavement," AAAE said.

Airports

Aug 28, 2003

FAA [Docket No. FAA-2003-15495] example of 60,000lb which is the PBWR MAC committed to in the Final Agreement with the city of Eden Prairie. What the policy states is that a certain number of planes over the allowable limit would not be denied access on a first-come, first-served basis. This is the national policy that is now in effect at general aviation airports across the nation.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2003-15495]

[Federal Register: July 1, 2003 (Volume 68, Number 126)]

[Notices]

[Page 39176-39178]

Scenario 1

The airport pavement is designed to 60,000 lb. dual-wheel load. Pavement design and soil support conditions are known. Operations up to 60,000 lb. is unrestricted, and the issue is how many flights should be permitted above that weight.

The airport receives frequent operations by several aircraft types at 70,000 lb., and occasional operations at 105,000 lb., but very few operations by other aircraft types in between those weights.

Reference to AC 150/5320-6D shows that on an annual basis up to xxxx operations at 70,000 lb. and xx operations at 105,000 lb. together would have no measurable effect on the life of the pavement, but more operations at either weight would begin to shorten pavement life.

The operator could require prior permission for operations above 60,000 lb. Permission would be granted on a first-come first-served basis, for xx (xxxx/52) operations per week up to 70,000 lb. and for x (xx/52) operations per week up to 110,000 lb.

2. In 2003 the FAA stated in the Weekly of Business Aviation that they "created this rule to "attempt to develop a "uniform national policy" on weight-based restrictions, the agency said." (FAA Ponders Airport Access Restrictions Based on Pavement Concerns, By The Weekly of Business Aviation, July 7, 2003)

This indicates it's a national policy that should have been reflected in the FEIS because it will have an impact on FCM. When the policy is not upheld, as was the case at Santa

Monica Airport, formal complaints are filed and the FAA steps in and threatens grant assurances unless the airport stops policies that restrict access by weight.

The implementation to carry out the PBWL policy the FAA uses is revealed in an article from the Santa Monica Lookout News, Oct 13, 2003, (see attachment). Here following are some quotes from the article. Note that Santa Monica airport has one 5,000 ft runway with a 60,000lb weight limit.

“ The dogfight to control aircraft landing rights stems from a dispute in which the Federal Aviation Administration (FAA) insists larger aircraft – above the current 60,000-pound weight limit -- be allowed to touch down on the historic airstrip.

“A Gulf stream G-4 is the largest thing that comes into the airport, anything beyond that is beyond our weight capacity,” explains Airport Manager Robert Trimborn. “We have a 60,000 pound weight capacity and if you’re looking at these new variations of business jets that look like commuter airline carriers or if you bring in another alternative to the Gulf Stream product with a larger wingspan, you’re far in excess of what we allow in the airport.”

According to Trimborn, newer and larger aircraft will fall within the 75,000 - 125,000-pound range. “Our pavement just can’t withstand that. Most of them have an extremely wide wingspan that would be in the 80, 90, 100-foot width,” he said. “It’s quite idiotic to be proposing an exemption from their own (FAA) standards of weight and wingspan, dimensional limitations to an operating surface.”

Airport officials told the FAA of their concerns and pointed to the organization’s own safety guidelines regarding larger aircraft. According to Mathieu, the FAA remained “strangely silent” on the issue. But when local officials began crafting an Aircraft Conformance Program to ensure the continued safety of the surrounding neighborhoods by limiting the size of planes operating out of the airport, the FAA pounced on the proposal.

“They filed a federal complaint against us because what we’re doing might result in fewer aircraft being able to come to our airport and that could be discriminating in general,” said Mathieu. “Those words were actually used in their complaint against us,” he said.”

It is clear that only when an airport denies access does the FAA step in to do what they claim is their purpose of “developing a uniform national policy” related to aircraft weight limits based on runway weight bearing capacity.

MAC states that the FAA has not objected to the Flying Cloud weight limit and that the FAA has not finalized the policy. Let us also point out that the Flying Cloud runway has not been built yet. Precedent set at Santa Monica and other airports attest to the fact that the FAA only gets involved when a move is made to deny access. If we are to believe the FAA’s own published statement, that the policy is intended to develop a

"uniform national system" then it will impact all general aviation airports, including Flying Cloud Airport. One airport, Flying Cloud, will not be exempt from FAA national policy. This is substantiated by cases at other airports around the nation, unless there is the political where-with-all to circumvent the FAA, such as in Teterboro, where access was limited by special legislation approved by President Bush.

The FAA policy in question, despite it not being formerly actuated, is still in effect at general aviation airports around the country including Naples, Florida, Santa Monica, California Teterboro, New Jersey and more. Therefore, at any time when an operator with aircraft above the allowable limit would want to base out of FCM, according to this FAA policy, they would be allowed access up to 110,000lbs and more. Aircraft of that size are not included in the fleet mix prepared for the Flying Cloud FEIS making the FEIS for Flying Cloud inadequate.

MAC had to have known about this new policy, but failed to disclose it in the FEIS. Without the FAA signing off on the Eden Prairie/MAC Agreement, it would seem, there are no assurances that larger jets wanting access would be denied access. MAC states that the FAA has not formally objected, but that's contrary to the FAA's own stated policy which is to try and create a "uniform national policy" and also contrary to the FAA's actions at other general aviation airports around the country, such as the Santa Monica airport.

3. **October 2, 2003 the NBAA files a complaint against Santa Monica Airport for initiating new fees to cover the damage from heavier planes the new FAA policy allows.**

These new fees were in response to the FAA policy in question, which allows some heavier planes to land at small airports whose pavement was not intended to support heavier planes. The NBAA responded by saying that Santa Monica airport was only trying to keep larger planes out as a noise mitigation.

(See attachment, NBAA Complaint.)

Page 5, number 6 of this complaint states:

6. In the recently issued Notice of Proposed Policy on Weight-Based Restrictions at Airports, the FAA stated that if "the limit on airport use appears motivated by interest in mitigating noise without going through processes that exist for such restrictions [i.e., Part 161], an attempt to limit aircraft by weight will be considered unreasonable." 68 Fed. Reg. 39176, 39177 (July 1, 2003).

4. **Teterboro airport in New Jersey, another General Aviation airport, initiates heavier aircraft ban in response to new FAA policy in question- Feb 11, 2004**

http://www.avweb.com/bizav/10_07/news/186692-1.html

"Congress' recent action to approve Rep. Rothman's amendment will further erode the FAA's ability to establish national standards for airports and reasonable, rational access to them. These combine with the growing plethora of state and local laws designed regulating aviation operations and aviation security to make business aviation more complicated, more costly and more challenging

than ever before. The state and local efforts to regulate aviation also make the FAA even less relevant than it has become in the aftermath of the Sept. 11, 2001, terrorist attacks. And there's no end in sight. "

http://www.avweb.com/bizav/9_33/news/185495-1.html

How big is too big? For the people who run Teterboro Airport in New Jersey -- by some standards the busiest GA airport in the country -- the limit is 100,000 pounds, regardless of what the FAA says. The Port Authority of New York and New Jersey says it will fight FAA pressure to allow larger aircraft into the airport, which now caters to bizjets, charters and well-to-do pistons. At the same time, landing fees for the smaller aircraft may be disproportionately going through the roof. The Port Authority has maintained the 100,000-pound ban for 30 years; the landing fees may not be a ban, but may also serve a similar function.

In Summary of Pavement Based Weight Restrictions (PBWR):

MAC states that the FAA policy has not been finalized. MAC doesn't tell us that the policy is being challenged by members of Congress and individual airports and that despite the policy not being finalized the FAA policy is currently in effect around the country. Airports have had their grant assurances removed for implementing programs that would deny access to aircraft over the pavement strength limits.

Because this FAA policy is in effect around the nation, weight restrictions at General Aviation airports have been deemed by the FAA, the NBAA, (National Business Aviation Association) the AOPA (Airline Operators and Pilots Association) and other aviation organizations as access discrimination based on aircraft weight. Airports have had their grant assurances revoked for denying access to heavier planes. For this reason, the Flying Cloud FEIS must include heavier aircraft in the proposed fleet mix for Flying Cloud. MAC did not include the heavier aircraft in the FEIS fleet mix for Flying Cloud Airport because they committed to a 60,000lb PBWR. Because of their commitment in the Final Agreement, environmental impacts and the cumulative effects from heavier aircraft, like air and noise pollution, were not included in the FEIS. The MAC has two options: either obtain a written legal agreement from the FAA stating that in the case of Flying Cloud Airport, no aircraft over 60,000lbs can have access to Flying Cloud, or include aircraft and its impacts over the 60,000lbs in the FEIS. MAC cannot "on the FAA's word" exclude vital information that could eventually result in a more profound impact to the community, because national precedence has already taken place at other airports, and heavier aircraft have been admitted to similar airports. Additionally, the Final Agreement also stipulates that if a state or national law should conflict with, or change any commitment, the law takes precedence. What that means is that at any time, whether or not the policy is formerly actuated, the 60,000lb PBWR could be no longer applicable. If the FAA signs a legal commitment to uphold the PBWR, then the 60,000lb will be legally binding. Considering what the ramifications are, any way you look at it, the FEIS does not reflect the current FAA policy in effect nationwide, which makes the current FEIS for Flying Cloud inadequate and the FEIS should be denied approval.

The FAA's new definition of Minneapolis Class B Airspace

On Monday November 28, 2005 the FAA announced Final Rulemaking that redesigned Class B Airspace in the Minneapolis area. Essentially this redesign changed the operations for smaller aircraft in order to accommodate the growing footprint of MSP.

Class B Airports around the busiest US airports is classified as ICAO Class B. This protects the approach and departure paths from aircraft not under air traffic control. All aircraft inside Class B airspace are subject to air traffic control. Traffic operating under VFR must be identified on radar and explicitly cleared into the airspace before they can enter. The inner rings of the Class B Airspace extend from the surface area around the airport to typically 10,000' MSL. Several outer rings surround it with progressively higher floors to allow traffic into nearby airports without entering the primary airport's Class B.

Flying Cloud: Pattern Altitude: 1906' MSL. Frequencies: Tower 118.1 and 125.2, Ground 121.7, ATIS 124.9. Runways 10L-28L, 10R-28R, 18-36. Near the airport and to the North and South, remain well below 3,000' MSL. To the West the floor of the Class B Airspace rises to 4,000' MSL. The floor falls to 2,300' MSL 2NM to the East. Remain well below these altitudes. Continued flight to the East brings you to within 6NM of MSP where operations are prohibited without ATC permission.

1. **Page 2- MAC says the new airspace modifications were published in public comment on more than three occasions in the past four years including two notices in the Federal Register within the past two years.**

If that is the case, then MAC failed to incorporate the inevitable redesign in airspace for the FEIS and expansion of FCM (Flying Cloud Airport), which changes the way small planes can access airspace around Flying Cloud and MSP.

MAC contends that this new airspace redesign will have no effect on operations at FCM, conversely the Airline Operators and Pilots Association (AOPA), says the airspace redesign will impact the operations of General Aviation.

<http://www.aopa.org/whatsnew/newsitems/2005/051201mn.html>

General aviation VFR pilots must have access to airspace around metropolitan areas — it's not just reserved for the airlines — and AOPA is fighting to make sure Minneapolis-area pilots will be able to continue to fly from point A to point B without the hassle of complex clearances once Minneapolis-St. Paul International's (MSP's) Class B airspace expands in February.

"The Minneapolis Class B airspace currently has no VFR flyways for pilots, but at the request of AOPA, the FAA has promised that it will create them," said Heidi Williams, AOPA director of air traffic services. "We are going to hold the FAA's feet to the fire to make sure they create flyways so that, for example, a pilot can efficiently fly from Flying Cloud on the western side of the airspace to St. Paul-Downtown on the eastern side."

"AOPA is extremely frustrated that despite our objections the FAA decided to raise the ceiling of the airspace, and we are going to make sure the airspace

needs of Minneapolis-area pilots are met," Williams said. "Right now, that means getting VFR flyways implemented."

Has airspace around MSP been marginalized for smaller aircraft that use Flying Cloud Airport? The answer is yes. Has MAC failed to incorporate those changes in the FEIS for the expansion of FCM? The answer is yes. In MAC's response to the EQB they again failed to explain how operators using the Flying Cloud Airport would be impacted. According to the AOPA the Class B airspace redesign represents an impediment to flying directly from point A to point B. Hence operators would have to circumnavigate the airspace and fly within VFR flyways, if the FAA creates flyways.

If we were to compare MSP to LAX Class B Airspace, (see below) it is clear that small planes must utilize flyways or as they're referred to VFR flyways, to keep out of controlled traffic flows. Otherwise they have to submit a flight plan in order to gain access to areas that are subject to Air Traffic Control. That will make it operationally less efficient and more costly for general aviators to operate out of Flying Cloud Airport. That means general aviation operators will be impacted because they will have to circumnavigate the airspace, a costlier and more time consuming operation. This fact is substantiated by the FAA in their Rulemaking Document in the Federal Register; they say the **"rule may impose some circumnavigation costs on individuals operating in the Minneapolis terminal area."**

http://www.aopa.org/whatsnew/air_traffic/lax-vfr.html

LAX Class B Airspace

"The first tool that every pilot flying in the L.A. Basin, or planning a flight through Basin airspace, must have is a current Los Angeles Terminal Area Chart (TAC). Unfold it and take a look at the back. An orderly thatch of blue lines crisscross the Basin — these mark suggested VFR flyways and altitudes. The sentence on the back of the chart says it all: "VFR flyways are designed to help VFR pilots avoid major controlled traffic flows." Further on it says these flyways are intended to provide routings that are alternatives to flight within Class B and Class C airspace. In other words, pilots utilizing flyway routings are not required to obtain ATC clearances for these routings — following the altitudes and flyways keeps pilots clear of airspace that requires a clearance. Of course, establishing contact with ATC for traffic advisories and flight following is always advisable, especially during periods of reduced visibility."

MAC states that the "Class B airspace redesign changes do not require jets to fly in different locations from where they operate today. It merely encompasses their current flight patterns and procedures in more tightly FAA-controlled airspace to enhance safety by separation of aircraft."

We do not refute that safety was the main reason for the airspace change. What we refute is that MAC did not reflect in the FEIS that a significant operational and economic change to General Aviation aircraft users of FCM is evidenced by the airspace redesign. The fact is airspace will be modified so that general aviation operators will be inconvenienced and have a more costly approach in the airspace around Flying Cloud

and MSP, this will be the case for all the relievers. The FAA states it clearly: "Aircraft will have to circumnavigate the Class B Airspace."

<http://www.aopa.org/whatsnew/newsitems/2005/051128mn-rule.pdf>

The FAA rulemaking states that the change in traffic flow at MSP is needed to create three arrival streams rather than the current practice of two arrival streams.

The FAA agrees with the AOPA that chartered VFRs flyways will minimize the impact on aircraft that choose to circumnavigate the MSP Class B Airspace. The FAA goes on to say that because VFR flyways are not addressed in Class B Airspace rulemaking action, the FAA plans to develop and institute VFR flyways for MSP terminal area through a separate, non-rulemaking process.

But according to the Federal Register," this final rule will modify the Minneapolis, MN, Class B airspace area. The final rule will reconfigure the sub-area lateral boundaries, and raise the altitude ceiling in certain segments of the airspace."

The FAA states that the" rule may impose some circumnavigation costs on individuals operating in the Minneapolis terminal area. That means general aviation operators will be impacted because they will have to circumnavigate the airspace which will be costlier."

Significant Ways Class B Airspace Impacts Operators and Communities

- Class B airspace separates your point of departure and destination, so you have three choices - fly around it, over or under it if possible, or through it. The last option may be the most desirable choice to save time and avoid flying high or low over communities. But, you have to have ATC clearance to do that.
- The letter B also reminds pilots that this airspace has big bucks, busy airspace, and jet blast, things that discourage landing at a Class B airports or flying through the airspace. And there's a cost issue. Virtually all Class B airports charge landing and other fees. What this means is that the types of planes that use reliever airports are discouraged from landing or operating out of MSP due to big bucks, busy airspace, and jet blast. This alone invalidates MAC's single rationale for the expansion of FCM: capacity relief for MSP.
- Class B airspace may also be crowded, and to mix large and small aircraft safely requires pilots and air traffic controllers to exercise extra diligence. Wake turbulence is a likely factor, and on the ground, jet blast is a potential hazard. Finally, if you don't meet the pilot certification and aircraft equipment requirements, flying into Class B airspace will put you afoul of the federal aviation regulations. This means some pilots who navigate the airspace now would not be able to do so without more certification.
- Another change to the way pilots must operate the airspace is smaller aircraft operating around the Class B Airspace must follow tower instructions for departure, and then establish and maintain communication with the Class B

controller while in the Class B airspace. If the smaller airport is a non-tower airport, pilots must contact the Class B controller as soon as possible after departure and maintain communication with the Class B controller while in the Class B airspace.

- There is also an equipment requirement to flying in Class B Airspace. Given the necessity that you must receive a clearance, the requirement for a two-way radio is obvious, but FAR 91.131 and also spells out another ABC - an Active transponder Beacon with Mode C (altitude reporting). Class B airspace is simply too busy to routinely allow an aircraft into the mix without a Mode C transponder. This provides a safe separation between planes.
- If you fly IFR in Class B airspace, your aircraft must have an operating VOR or TACAN receiver. VFR aircraft are exempt from this requirement, so if a controller tells you to track to or from a VOR, and you don't have a working VOR receiver, you can reply "unable," and the controller will give you a heading to fly.

Contrary to everything MAC has relayed in their response these changes are significant operational and economic changes that are not reflected in the FEIS for Flying Cloud Airport. It also means at some point, more GA planes will be forced to fly under or around the Minneapolis Class B Airspace since they don't have the ability to fly over that airspace. MAC has not assessed the environmental impacts that will be created by more aircraft flying at these low levels.

For MAC to assert in their response to the EQB that because operations at MSP are down there isn't much of an impact, is an insupportable rationalization for a significant change in the way small planes can operate around Flying Cloud and MSP airspace. The FEIS should be making a rational projection of air traffic in the future. While we agree that air traffic is down and we believe it will continue to diminish – that is not the rationalization MAC has used in the FEIS to justify expanding Flying Cloud Airport. Their FEIS argument claims an expansion of air traffic and for that reason changes in the Minneapolis Class B Airspace should have more impact on the General Aviation activities of Flying Cloud and the other reliever airports. Those impacts are not documented in the current FEIS for Flying Cloud and they should be. The current FEIS for Flying Cloud is inadequate and should be denied approval.

In Summary of Minneapolis Class B Airspace:

Because MAC has not disclosed in the FEIS the operational changes related to Class B Airspace at Minneapolis and the new FAA policy which changes the Aircraft Weight Limits Based on Runway Weight Bearing Capacity (PBWR) at general aviation airports, we believe that the Environmental Quality Board should determine the FEIS to be an inadequate document. It fails to address two significant operational changes, which would impact users at Flying Cloud Airport as well as create an increased pollution footprint for Eden Prairie and surrounding communities.

We request that the EQB direct MAC to reassess those impacts to both users and the recipients of an expanded Flying Cloud airport with full disclosure of the facts surrounding both the new Class B Airspace and the new FAA policy.

We also request that MAC clarifies the FAA policy position which violates MAC's commitment to the 60,000lb PBWL they committed to in the Final Agreement between Eden Prairie and MAC.

Thank you for your consideration,

Sincerely,

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February 11, 2004
...And who's Really In Charge?

By Jeb Burnside
Newswriter, Editor

The bottom line, for now, is that you can't bring a BBJ -- or a heavier aircraft -- into TEB. Whether the political pendulum will swing back in the direction of reversing or diluting this ban is something else again. One thing for sure, however, is that Congress' recent action to approve Rep. Rothman's amendment will further erode the FAA's

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ability to establish national standards for airports and reasonable, rational access to them. These combine with the growing plethora of state and local laws designed regulating aviation operations and aviation security to make business aviation more complicated, more costly and more challenging than ever before. The state and local efforts to regulate aviation also make the FAA even less relevant than it has become in the aftermath of the Sept. 11, 2001, terrorist attacks. And there's no end in sight.

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NBAA Supports Proposed FAA Policy on Weight-based Airport Access
Restrictions
Contact: Cassandra Bosco

Washington, DC, August 8, 2003 - NBAA filed comments today in support of a proposed FAA policy on weight-based airport access restrictions.

"It is vital that the FAA require airports to use weight-based restrictions only as a legitimate means of protecting airfield pavement, not to mitigate noise concerns by side-stepping the Part 150/161 airport noise process," said Shelley A. Longmuir, NBAA president. "If unchecked, the proliferation of such weight-based restrictions by airports could potentially extend to include smaller, lighter aircraft, for no good purpose."

Adoption by the FAA of the proposed policy potentially affects large aircraft operators, including those aircraft with MGTOWs exceeding 100,000 lbs., at all airports with existing or contemplated restrictions, most notably at Teterboro Airport in New Jersey. Adoption of this policy will guide airport proprietors regarding Federal access regulation.

While the proposed policy recognizes that in rare instances some restrictions might be necessary as a last resort, it also recognizes that the problem must be based on present load-bearing capacity. In comments filed today supporting the FAA's proposed policy, Longmuir pointed out that present load-bearing capacity must include recognition of the equivalent single-wheel load standard long used by the FAA. NBAA also pointed out that if access to an airport must be limited because of demonstrated, weight-bearing considerations, any process for allocating access must be transparent and

01.16.06 NBAA Supports Proposed FAA Policy on Weight-based Airport Access Restrictions.txt
non-discriminatory.

The FAA is expected to publish the final policy later this year. NBAA represents the aviation interests of more than 7,300 companies that own or operate general aviation aircraft as an aid to the conduct of their business, or are involved with business aviation. NBAA Member Companies earn annual revenues approaching \$5 trillion – a number that is about half the gross domestic product – and employ more than 19 million people worldwide. The NBAA Annual Meeting & Convention is the world's largest display of civil aviation products and services.

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The Weight of Pushing Tin

By Mark McGuigan

Staff Writer

Oct 13 - Despite safety concerns raised by administrators at the Santa Monica Airport, federal aviation officials are opposing city efforts to bar larger aircraft from using the airport nestled in a residential community.

The dogfight to control aircraft landing rights stems from a dispute in which the Federal Aviation Administration (FAA) insists larger aircraft -- above the current 60,000-pound weight limit -- be allowed to touch down on the historic airstrip. But local officials argue that the FAA's request to allow more tin to cruise the azure skies to the westside is a breach of air safety rules -- rules handed down by the FAA itself to safeguard smaller airports.

"A Gulf stream G-4 is the largest thing that comes into the airport, anything beyond that is beyond our weight capacity," explains Airport Manager Robert Trimborn. "We have a 60,000 pound weight capacity and if you're looking at these new variations of business jets that look like commuter airline carriers or if you bring in another alternative to the Gulf Stream product with a larger wingspan, you're far in excess of what we allow in the airport."

According to Trimborn, newer and larger aircraft will fall within the 75,000 - 125,000-pound range. "Our pavement just can't withstand that. Most of them have an extremely wide wingspan that would be in the 80, 90, 100-foot width," he said. "It's quite idiotic to be proposing an exemption from their own (FAA) standards of weight and wingspan, dimensional limitations to an operating surface."

A spokesman for the FAA was unavailable for comment.

To assert independence from the FAA, local airport officials in 1995 refused to accept money from FAA coffers. The move offered more autonomy over local decisions concerning air traffic and safety -- much to the FAA's chagrin.

"If you accept FAA funds to do improvements, then you are beholden to them," said Jeff Mathieu, director of Santa Monica Airport. "The issue the FAA has raised recently regarding a weight-based exemption is that 10 to 15 percent of the aircraft coming into the airport can be over the weight limit -- we say no to that."

Airport officials told the FAA of their concerns and pointed to the organization's own safety guidelines regarding larger aircraft. According to Mathieu, the FAA remained "strangely silent" on the issue. But when local officials began crafting an Aircraft Conformance Program to ensure the continued safety of the surrounding neighborhoods by limiting the size of planes operating out of the airport, the FAA pounced on the proposal.

"They filed a federal complaint against us because what we're doing might result in fewer aircraft being able to come to our airport and that could be discriminating in general," said Mathieu. "Those words were actually used in their complaint against us," he said.

The rationale for the FAA's drive to allow bigger and faster aircraft is based purely on economics rather than avionics, according to airport officials the FAA made the request because it faces an increased demand on limited airport resources.

The commercial airline operators are clamoring for changes that would essentially free up airport space at regional hubs such as LAX for use by larger commercial jets.

"There are only so many landings and take-offs you can have at LAX," explains Trimborn. "If you replace a 400 seat aircraft with a 20 seat aircraft, that's inefficient. But that's their concern, it's not ours." Officials in Santa Monica contend that this desire to provide commercial airlines with more elbowroom in which to operate is putting the safety of residents and those aboard the airplane at risk. Aircraft are assigned one of four categories -- A, B, C or D -- depending on speed, wingspan and

01.16.06 Santa_Monica_The_weight_of_Pushing_Tin.txt

size considerations among other factors. Type A1 would be considered a small, piston-driven, single engine-plane while type D5 represents a typical commercial airliner such as a Boeing 747.

From its inception, Santa Monica airport was originally designed to accommodate type A and B aircraft. But air traffic has almost always mirrored the economy in California -- of the 160,000 airport operations last year, 10 percent of the traffic was from corporate jets. Throughout the nineties, as the dot.com bubble burgeoned, so too did the traffic in Santa Monica airspace as more and more companies felt the need to jet executives across the country to attend customer meetings.

"Operations of the airport mirror what the economy is doing -- as the economy goes up, operations go up, as the economy goes down, airport operations go down," explained Trimborn. "As the dot.com bubble was rising, we were seeing a corresponding increase in the activity of corporate jet activity in the airport."

But corporate jets are not your average aircraft. Not only are they lavish, sleek and fast, their overall heft is more like a commercial airliner than a small plane. To accommodate the whims of the modern jet-setting CEO, these planes feature meeting rooms and advanced telecommunications equipment. They also pose a dramatic weight increase that can damage the underlying structure of the landing strip. Despite the downturn in the dot.com economy, the boom in the westside's entertainment industry has led to a sustained increase in the number of larger -- and noisier -- corporate jets landing and taking off from Santa Monica.

In fact, a study found that around 50 percent of the corporate jets screeching to a halt on Santa Monica airport's tarmac were classified as type C or D and are punishing the surface of the airstrip. Their speed and stopping distance were also cause for concern because there would be no extra space for error on the 5,000 feet long runway.

An aerial photograph hanging on a wall in the conference room of the administration building shows the neighborhood homes in relation to the airport. The airport is surrounded on all sides by densely populated streets with some homes just yards from the end of the runway.

"We want to safeguard not only their lives (homeowners) and property but also the people that are riding on the aircraft and operating in the airport," said Mathieu. "We want to make sure that they're flying into and out of an airport that's properly designed for the aircraft they're riding on."

Any future ordinance to limit larger jets may well start taking flak long before it reaches city hall. Officials understand that they face the very real prospect of a face-off with the FAA but are unsure just what that will involve.

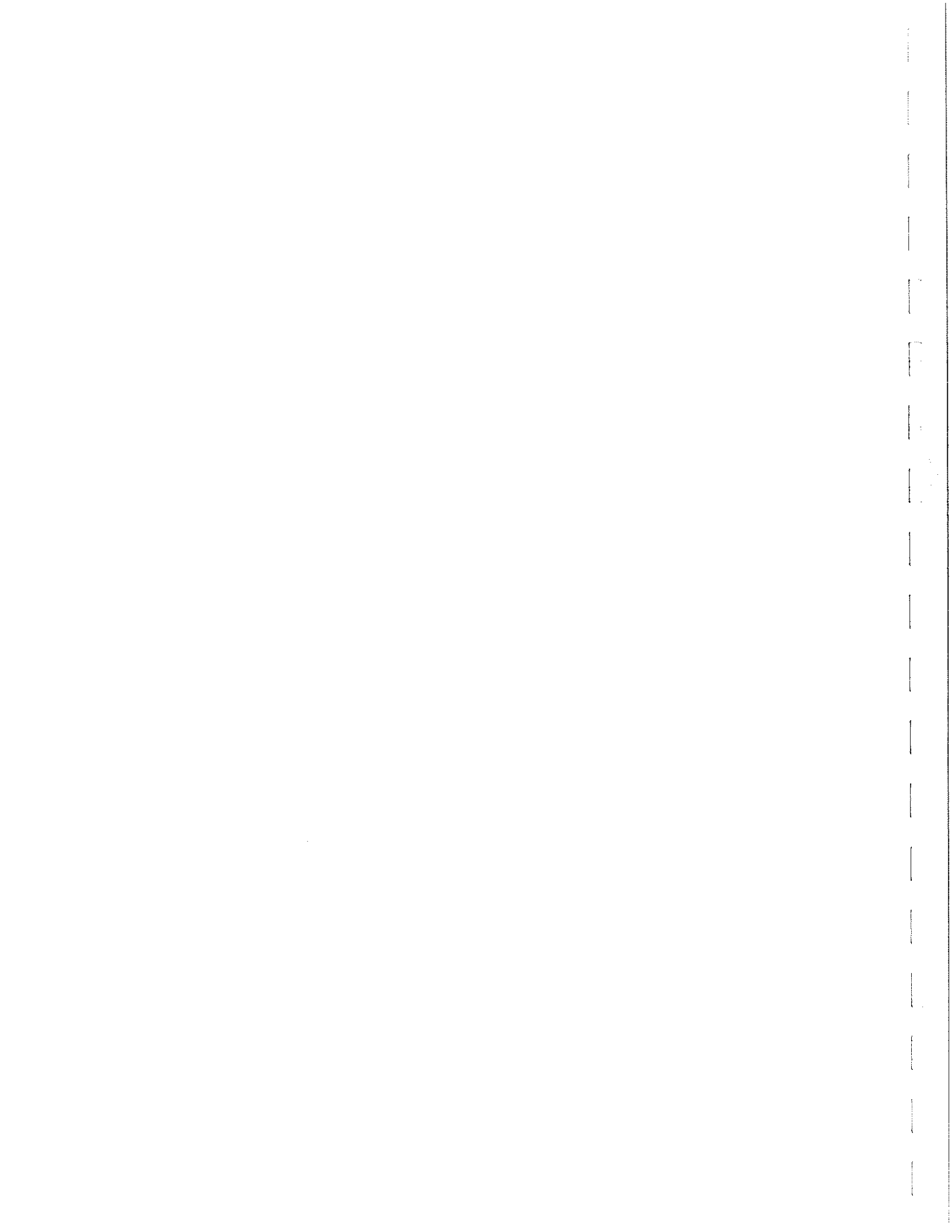
"I don't know what the FAA is going to do with their own complaint," said City Attorney Marsha Moutrie. "We'll have to see what the FAA does (first)."

And to airport officials, such FAA posturing on matters of local concern is nothing short of an affront to the safety of residents in and around the airport corridor.

"It was almost like saying to the City of Santa Monica that you can't even discuss this safety issue," said Trimborn. "We felt like that was an affront to our sovereignty, we're a sovereign city in a state and we can discuss issues of safety without being put upon by the federal government."

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ATTACHMENT B
CORRESPONDENCE



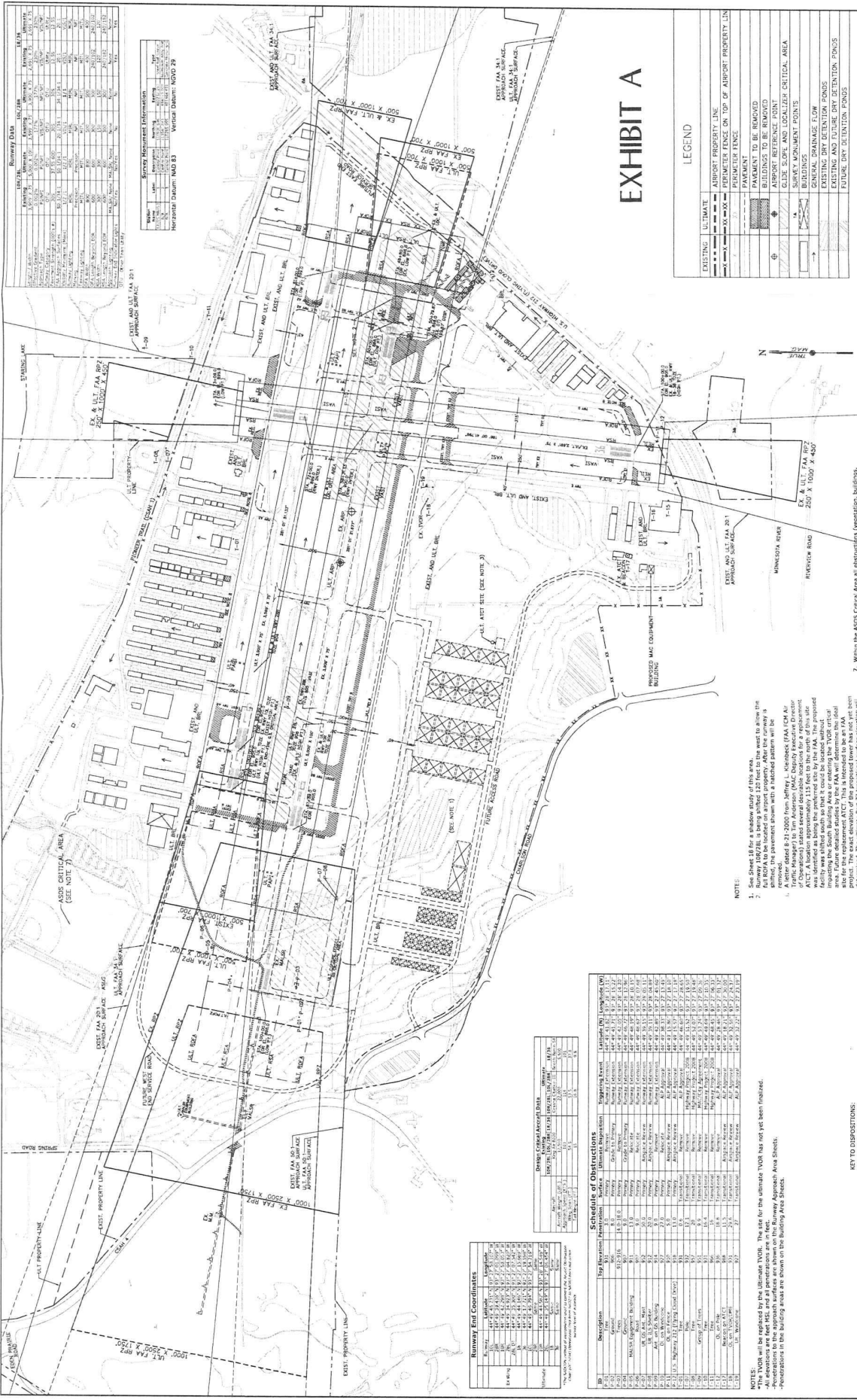


EXHIBIT A

LEGEND

EXISTING	ULTIMATE	AIRPORT PROPERTY LINE
PERMETER FENCE ON TOP OF AIRPORT PROPERTY LINE		
PAVEMENT		
PAVEMENT TO BE REMOVED		
BUILDINGS TO BE REMOVED		
AIRPORT REFERENCE POINT		
GRADE SURVEY AND LOCALIZED CRITICAL AREA		
GENERAL DRAINAGE FLOW		
EXISTING DRY DETENTION PONDS		
EXISTING AND FUTURE DRY DETENTION PONDS		
FUTURE DRY DETENTION PONDS		

Flying Cloud Airport - Eden Prairie, Minnesota
 Metropolitan Airports Commission

HNTB
 04-25-08

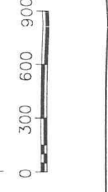
2 of 22

Runway Data

Runway	Length (ft)	Width (ft)	Surface	ASPH	CONC	Other
15L	10000	150	ASPH	10000	0	
15R	10000	150	ASPH	10000	0	
16L	10000	150	ASPH	10000	0	
16R	10000	150	ASPH	10000	0	
17L	10000	150	ASPH	10000	0	
17R	10000	150	ASPH	10000	0	
18L	10000	150	ASPH	10000	0	
18R	10000	150	ASPH	10000	0	
19L	10000	150	ASPH	10000	0	
19R	10000	150	ASPH	10000	0	
20L	10000	150	ASPH	10000	0	
20R	10000	150	ASPH	10000	0	
21L	10000	150	ASPH	10000	0	
21R	10000	150	ASPH	10000	0	
22L	10000	150	ASPH	10000	0	
22R	10000	150	ASPH	10000	0	

Survey Measurement Information

Point	Northing	Easting	Height
1	1000000.00	1000000.00	1000.00
2	1000000.00	1000000.00	1000.00
3	1000000.00	1000000.00	1000.00
4	1000000.00	1000000.00	1000.00
5	1000000.00	1000000.00	1000.00
6	1000000.00	1000000.00	1000.00
7	1000000.00	1000000.00	1000.00
8	1000000.00	1000000.00	1000.00
9	1000000.00	1000000.00	1000.00
10	1000000.00	1000000.00	1000.00
11	1000000.00	1000000.00	1000.00
12	1000000.00	1000000.00	1000.00
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25	1000000.00	1000000.00	1000.00
26	1000000.00	1000000.00	1000.00
27	1000000.00	1000000.00	1000.00
28	1000000.00	1000000.00	1000.00
29	1000000.00	1000000.00	1000.00
30	1000000.00	1000000.00	1000.00



- NOTE:**
- See sheet B for a shadow study of this area.
 - The RDA is to be located on airport property. After the runway is removed, the pavement shown with a hatched pattern will be removed.
 - A letter dated 8-21-2008 from Jeffrey L. Kobosch (FAA Director of Operations) stated several desirable locations for a replacement facility were identified and the location could be located within the critical area. Future detailed studies by the FAA will determine the final location. The exact elevation of the proposed tower has not yet been determined. The proposed tower location is shown with a hatched pattern.
 - The Runway 16 RDA and RDA shown here are currently and permanently deficient. HNTB is recommending a temporary waterway be constructed to the runway.
 - See sheet C for a detailed information on signage and pavement markings.

ASPHACE BELOW - Sponsor requests a determination of no hazard from the FAA. Construction will be marked / lighted if needed. If the determination of no hazard concludes that the proposed construction will be a hazard to aircraft, the FAA will require the sponsor, the MAC will work with the property owner(s) to obtain permission to light, lower or remove the obstruction.

KEY TO DISPOSITIONS:
 REMOVE - Object will be removed.
 GRADE TO PRIMARY - This feature will need to be cut to a specific elevation (e.g. same elevation as the primary surface).

Runway End Coordinates

Runway	Northing	Easting
15L	1000000.00	1000000.00
15R	1000000.00	1000000.00
16L	1000000.00	1000000.00
16R	1000000.00	1000000.00
17L	1000000.00	1000000.00
17R	1000000.00	1000000.00
18L	1000000.00	1000000.00
18R	1000000.00	1000000.00
19L	1000000.00	1000000.00
19R	1000000.00	1000000.00
20L	1000000.00	1000000.00
20R	1000000.00	1000000.00
21L	1000000.00	1000000.00
21R	1000000.00	1000000.00
22L	1000000.00	1000000.00
22R	1000000.00	1000000.00

Schedule of Obstructions

ID	Description	Top Elevation (ft)	Tripping Elevation (ft)	Latitude (N)	Longitude (W)
1	15L Runway	1000	1000	44° 52' 30.00"	93° 27' 30.00"
2	15R Runway	1000	1000	44° 52' 30.00"	93° 27' 30.00"
3	16L Runway	1000	1000	44° 52' 30.00"	93° 27' 30.00"
4	16R Runway	1000	1000	44° 52' 30.00"	93° 27' 30.00"
5	17L Runway	1000	1000	44° 52' 30.00"	93° 27' 30.00"
6	17R Runway	1000	1000	44° 52' 30.00"	93° 27' 30.00"
7	18L Runway	1000	1000	44° 52' 30.00"	93° 27' 30.00"
8	18R Runway	1000	1000	44° 52' 30.00"	93° 27' 30.00"
9	19L Runway	1000	1000	44° 52' 30.00"	93° 27' 30.00"
10	19R Runway	1000	1000	44° 52' 30.00"	93° 27' 30.00"
11	20L Runway	1000	1000	44° 52' 30.00"	93° 27' 30.00"
12	20R Runway	1000	1000	44° 52' 30.00"	93° 27' 30.00"
13	21L Runway	1000	1000	44° 52' 30.00"	93° 27' 30.00"
14	21R Runway	1000	1000	44° 52' 30.00"	93° 27' 30.00"
15	22L Runway	1000	1000	44° 52' 30.00"	93° 27' 30.00"
16	22R Runway	1000	1000	44° 52' 30.00"	93° 27' 30.00"
17	15L Taxiway	1000	1000	44° 52' 30.00"	93° 27' 30.00"
18	15R Taxiway	1000	1000	44° 52' 30.00"	93° 27' 30.00"
19	16L Taxiway	1000	1000	44° 52' 30.00"	93° 27' 30.00"
20	16R Taxiway	1000	1000	44° 52' 30.00"	93° 27' 30.00"
21	17L Taxiway	1000	1000	44° 52' 30.00"	93° 27' 30.00"
22	17R Taxiway	1000	1000	44° 52' 30.00"	93° 27' 30.00"
23	18L Taxiway	1000	1000	44° 52' 30.00"	93° 27' 30.00"
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27	20L Taxiway	1000	1000	44° 52' 30.00"	93° 27' 30.00"
28	20R Taxiway	1000	1000	44° 52' 30.00"	93° 27' 30.00"
29	21L Taxiway	1000	1000	44° 52' 30.00"	93° 27' 30.00"
30	21R Taxiway	1000	1000	44° 52' 30.00"	93° 27' 30.00"
31	22L Taxiway	1000	1000	44° 52' 30.00"	93° 27' 30.00"
32	22R Taxiway	1000	1000	44° 52' 30.00"	93° 27' 30.00"

REVISIONS

No.	BY	DATE	CHANGE

**DEPARTMENT OF THE ARMY**

ST. PAUL DISTRICT, CORPS OF ENGINEERS
ARMY CORPS OF ENGINEERS CENTRE
190 FIFTH STREET EAST
ST. PAUL, MN 55101-1930

REPLY TO
ATTENTION OF

October 1, 1999

Construction-Operations
Regulatory (99-07923-JJY)

Mr. Scott Krych
Peterson Environmental Consulting, Inc.
1355 Mendota Heights Road, Suite 100
Saint Paul, Minnesota 55120-1112

Dear Mr. Krych:

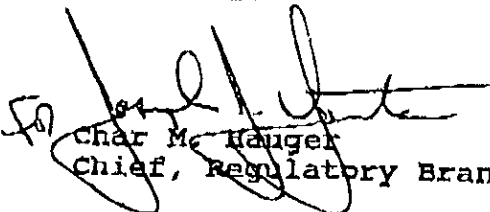
We have reviewed the information you provided about several depressional areas on the Flying Cloud Airport. The project site is in the W 1/2 Sec. 28, T. 116 N., R. 22 W., City of Eden Prairie, Hennepin County, Minnesota.

We agree with your November 19, 1998, delineation report, which indicates that these areas are not jurisdictional wetlands. Any work proposed at the location stated is therefore not within the regulatory jurisdiction of the Corps of Engineers. No work will be done in a navigable water of the United States, and no dredged or fill material will be discharged in any water of the United States, including wetlands. Therefore, a Department of the Army permit is not required to do this work.

This letter is valid only for the project referenced above. If any change in design, location, or purpose is contemplated, contact this office to avoid doing work that may be in violation of Federal law. PLEASE NOTE THAT THIS CONFIRMATION LETTER DOES NOT ELIMINATE THE NEED FOR STATE, LOCAL, OR OTHER AUTHORIZATIONS, SUCH AS THOSE OF THE DEPARTMENT OF NATURAL RESOURCES OR COUNTY.

If you have any questions, contact Mr. Joseph Yanta in our St. Paul office at (651) 290-5362. In any correspondence or inquiries, please refer to the Regulatory number shown above.

Sincerely,


Char McRanger
Chief, Regulatory Branch

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

AIRPORTS DISTRICT OFFICE
6020 28th Avenue South, #102
Minneapolis, Minnesota 55450-2706
September 19, 2003

Mr. Dennis A. Gimmestad
Government Programs and Compliance Officer
State Historic Preservation Office
345 Kellogg Boulevard West
St. Paul, MN 55102-1906

Re: Flying Cloud Airport Expansion Final Environmental Impact Statement
Hangar Removal in Proposed Historical District Building Area No. 1
File No. 2002-0231

Dear Mr. Gimmestad:

The Metropolitan Airports Commission (MAC) and Federal Aviation Administration (FAA) are preparing the Final Environmental Impact Statement for the proposed Airport expansion that includes extensions of runways 9-27¹ and the construction of a new south building area (see attached Figure 3 and Map 1). The proposed expansion/action will have an adverse effect on Flying Cloud Airport Building Area No. 1, which has been assessed by Hess, Roise and Company as eligible for the National Register of Historic Places.² Eleven of the twenty hangars in Building Area No. 1 are proposed for removal as part of the proposed action (see attached sketch). Hangars 6A – 6G and 8A – 8D are proposed for removal in accordance with FAA safety standards. These hangars are collectively called the “Mustang Lane” hangars.

Removal of the Mustang Lane hangars cannot be avoided and still satisfy the purpose and need for the proposed action for the following reasons:

1. **Encroachment of the FAA Part 77 Approach Surface.**

For every airport runway approach, an imaginary surface is defined as a trapezoidal plane into which there can be no obstructions. Any structure, tree, light pole, etc. is considered an obstruction and a hazard to aircraft if it penetrates the imaginary approach surface. The dimensions and slope of this approach surface vary depending on the size and speed of aircraft using the runway. Approach surfaces are used to protect the safety of pilots and persons on or near the airport.

The approach surface for Runway 27L is a trapezoidal surface that slopes up and away from the runway end at a ratio of 34 (horizontal)-to-1 (vertical). The sides of the approach surface also extend up away from the trapezoid at a ratio of 7-to-1 (called the transitional surface).

All of the eleven Mustang Lane hangars penetrate one of these surfaces. Nine of the eleven hangars penetrate the approach surface and the other two penetrate the transitional surface.

2. **Runway Object Free Area.**

The runway object free area (OFA) is an 800-foot-wide area centered on the runway centerline that extends 600 feet beyond the runway end at this airport. The OFA is shown in the attached Figure 3.

¹ The designations of the parallel runways have changed from 9R/27L and 9L/27R to 10R/28L and 10L/27R to reflect the drift in magnetic declination from true north.

² Flying Cloud Airport: An Assessment of Significance, Hess, Roise and Company, July 2003

In general, the FAA runway OFA standard requires clearing of the OFA of above ground objects. Except where precluded by other clearing standards, it is acceptable to place objects that need to be located in the OFA for air navigation or aircraft ground maneuvering purposes and to taxi and hold aircraft in the OFA. Stationary objects non-essential for air navigation or aircraft ground maneuvering purposes are not to be placed in the OFA.

The runway OFA is shown on Figure 3. Two of the Mustang Lane hangars (8D, 8C) and the corner of a third hangar (8B) lie within the OFA.

3. Perimeter Road Construction.

The Flying Cloud Airport is currently listed as one of the top ten airports in the country for having the most runway incursions. A runway incursion happens when an aircraft, vehicle or person enters the air operations area or crosses an active runway without permission from the Air Traffic Control Tower (ATCT). Runway incursions are severe safety hazards, and a top priority of the FAA is to reduce and prevent such events.

One reason for Flying Cloud's record of runway incursions is the general layout of the airport building areas. Fixed base operators (FBOs), those companies that maintain and fuel aircraft and tug airplanes from hangar to hangar, are required to access all areas of the airport. In doing so, they often cross an active runway without permission from ATCT. The FAA has indicated that a perimeter road between the southeast building area and the north building area will greatly reduce the number of runway crossings, which should in turn reduce the risk for runway incursions.

The construction of a perimeter road around the Runway 27 ends requires the removal of the Mustang Lane hangars. Since this perimeter road is open only to airfield-related purposes (fuel trucks, tugs, and airport maintenance vehicles) it must be constructed inside the airport security fence. The Highway 212 right-of-way and parking area for Executive Aviation (an FBO) places the perimeter road location into the area where the Mustang Lane hangars exist.

The MAC and FAA have authorized the firms of HNTB and Hess, Roise and Company to prepare documentation needed for our review of the proposed actions. Please work with the MAC, as the owner of the Flying Cloud Airport, and these two firms on any Section 106 historic preservation review needed for the proposed airport expansion.

Please call me at 612-713-4354 or Bridget Rief at 612-725-8371 if you have questions or require further information.

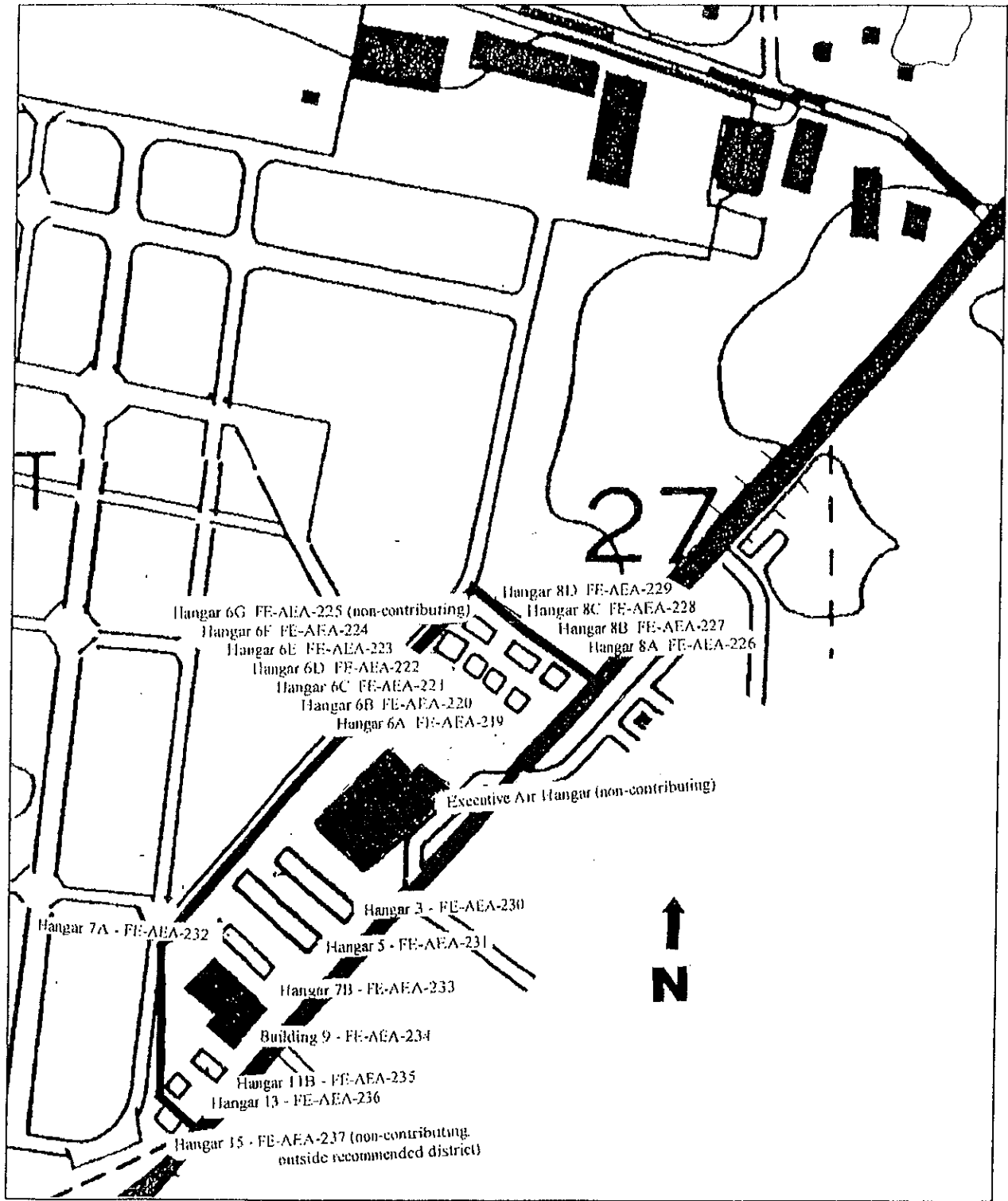
Sincerely,



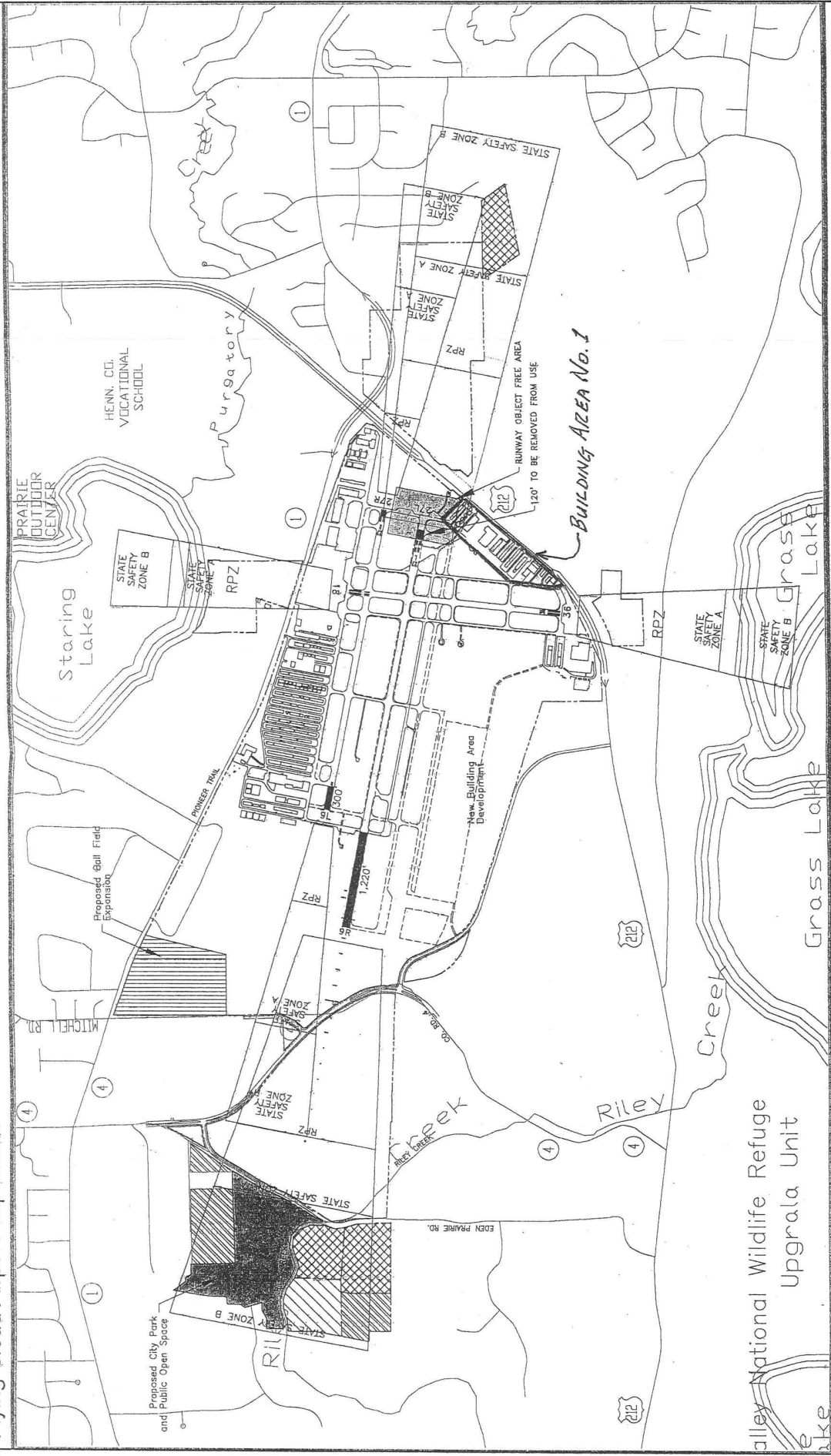
Glen Orcutt
Project Manager

Attachments

cc: Bridget Rief, MAC, with/out attach
Chad Leqve, MAC, with/out attach
Larry Dallam, HNTB, with/out attach
Charlene Roise, Hess, Roise, with/out attach



Proposed Flying Cloud Airport Building Area No. 1 Historic District
 Buildings are identified by SHPO inventory numbers
 Base map based on USGS Eden Prairie, Minnesota Quadrangle



Acquired and to be Resold with Easement
 Acquired
 To Be Acquired

2010 Property Line
 Source: HNTB, W.D. Schrock

HNTB
 MAC
 U.S. DEPARTMENT OF TRANSPORTATION
 Federal Aviation Administration

Figure 3
Alternative F

F:\2010\12\16\121612\121612\Figures\Figures for Final EIS_05200913.dwg, 3/11/2009 4:15:32 PM



November 19, 2003

MINNESOTA HISTORICAL SOCIETY

Mr. Glenn Orcutt
Federal Aviation Administration
Airports District Office
6020 28th Avenue South, #102
Minneapolis, MN 55450-2706

FAA, Mr.
Airports Dist. Office
NOV 20 2003

Handwritten notes and stamps on the right side of the page, including the word "CAN" and a date "11/15".

Re: Flying Cloud Airport Expansion Final EIS
Hangar Removal in Proposed Historical District Building Area No. 1
Eden Prairie, Hennepin County
SHPO Number: 2002-0231

Dear Mr. Orcutt:

Thank you for the opportunity to review and comment on the above project. It has been reviewed pursuant to the responsibilities given the State Historic Preservation Officer by the National Historic Preservation Act of 1966 and the Procedures of the Advisory Council on Historic Preservation (36CFR800).

We have the following comments:

1. We concur with the determination that the Flying Cloud Airport Building Area No. 1 Historic District meets National Register criteria.
2. We concur with the determination that the proposed removal of the "Mustang Lane" hangers (eleven of the twenty hangers in the historic district) will constitute an adverse effect.
3. We look forward to continuing to consult with your office and the Metropolitan Airports Commission in considering ways to avoid, reduce, and/or mitigate this effect.

Contact us at 651-296-5462 with questions or concerns.

Sincerely,

for Dennis A. Gimmestad
Government Programs & Compliance Officer

cc: Bridget Rief, MAC
Charlene Roise, Hess Roise
Larry Dallam, HNTB
Tom Cinadr, SHPO



FISH AND WILDLIFE SERVICE
Bishop Henry Whipple Federal Building
1 Federal Drive
Fort Snelling, MN 55111-4056

IN REPLY REFER TO:

JUN 21 2001

FWS/AES-HC (ER-00/028)

Mr. Glen Orcutt
Program Manager, Airports District Office
Federal Aviation Administration
6020 28th Avenue South, Suite 102
Minneapolis, Minnesota 55450-2706

Dear Mr. Orcutt:

On February 29, 2000, the Department of the Interior (Department) provided a letter of comment to the Federal Aviation Administration (FAA) addressing the December 1999 Draft Environmental Impact Statement (DEIS) for the Proposed Expansion of Flying Cloud Airport, City of Eden Prairie, Hennepin County, Minnesota. The DEIS is the joint statement of the FAA and the Metropolitan Airports Commission (MAC). The Department's letter conveyed the concerns of the U.S. Fish and Wildlife Service (Service) regarding the potential impacts of increased air traffic over and near the Minnesota Valley National Wildlife Refuge (Refuge).

Data in the DEIS indicated that the proposed expansion of physical facilities and use of the Flying Cloud Airport (Airport) would result in a substantial increase in aircraft flights over the Refuge, with a corresponding increase in noise levels. The Service was concerned that increased overflights, particularly by turbine aircraft (turboprops and business jets), could interfere with noise-sensitive public-use activities such as wildlife interpretation, environmental education, and wildlife observation (bird watching) on the Refuge. In addition, increased noise levels over the Refuge had the potential to impact the use of habitat by Refuge wildlife. Of particular concern was the proposed increase in overflights by turbine aircraft in the vicinity of an existing bald eagle nest site and a heron and bittern rookery.

The DEIS concluded that none of the alternatives under consideration is anticipated to have an adverse impact on the bald eagle (*Haliaeetus leucocephalus*), which is currently federally listed as threatened but proposed for delisting. The Department's letter indicated that the Service did not concur with the "no effect" conclusion and requested that the FAA enter into Endangered Species Act consultation with the Service.

After release of the DEIS, MAC performed a more detailed noise analysis per Federal Aviation Regulations (FAR), part 161. Surveys were conducted of Upper Midwest owners of Stage 2 jet aircraft (aircraft meeting the FAR part 36 Stage 2 certification requirements but not the quieter Stage 3 requirements). These surveys indicated no existing use of the Airport by Stage 2 aircraft and much lower anticipated future use than originally projected in the DEIS. Incorporation of the new survey data, along with revised data on percent use of each runway by type of aircraft, into the calculations of the average noise (DNL) contours for both the No Action and Proposed Action alternatives results in considerably smaller contours than originally provided in the DEIS.

Subsequent to the Department's letter, the Service continued to meet with representatives of the FAA and MAC for further discussion of the Service's concerns and the revised noise analysis data. In May of 2001, the project consultant (HNTB) provided the Service with copies of requested sections of the most current draft of the Supplement to the DEIS. The information includes narrative sections and figures related to bird-aircraft hazards, endangered and threatened species, noise, wildlife refuges, runway use, and monthly operations by flight track.

Based upon the discussions with the FAA and MAC and review of the current draft data, the Service has the following comments regarding the Proposed Action with Voluntary Noise Mitigation Measures.

Effects of Proposed Expansion on Refuge

The Proposed Action will result in more than a three-fold increase in the number of monthly flights by jet aircraft over the Refuge by year 2010. There will also be a substantial increase in the number of overflights by piston-driven aircraft. While this increase in air traffic over the Refuge will result in increased noise levels on the Refuge, the increase will be less than originally estimated in the DEIS. The Service is concerned whenever actions are proposed that will result in a discernable increase in Refuge noise levels. However, we recognize that the average noise levels estimated for year 2010 are unlikely to result in substantial impairment to the Refuge. Consequently, we believe that there will be no impacts (constructive use) per section 4(f) of the Department of Transportation Act of 1966 provided that the forecasted flight information and fleet mix and estimates of associated noise levels prove to be accurate. On the other hand, there is a potential for section 4(f) impacts to occur if future use of the Airport is significantly greater than projected and/or if noise levels prove to be greater than originally calculated. If at some point in the future the noise levels on the Refuge are found to be substantially greater than originally estimated, the Service reserves the right to reinstate negotiations to ensure that potential adverse effects are considered.

Endangered and Threatened Species

In response to the Department's letter of February 29, 2000, the FAA had a biological assessment (BA) prepared concerning the nesting bald eagles using the Wilkie Unit of the Refuge. Based on

Mr. Glen Orcutt

the reasons summarized below, the conclusion of the BA is that there would be no adverse effects on the bald eagles as a result of implementation of the Proposed Action with or without noise mitigation.

1. The proposed action is consistent with *Northern States Bald Eagle Recovery Plan*.
2. Nesting eagle populations in the Minneapolis-St. Paul area have expanded substantially over the last 10 to 15 years.
3. The territory for the Wilkie Unit eagles lies within an urbanized area subject to substantial human disturbance.
4. The proposed action will add only one aircraft operation per day to the only flight track near the existing nest (Flight Tract 16), and this flight tract will not be used by jet aircraft.
5. Scientific research documents the propensity of nesting bald eagles to habituate to noise and mechanical disturbance well in excess of that anticipated with the proposed action.
6. Applicable research has not documented any demonstrable adverse impact upon breeding bald eagles from aircraft overflights.
7. Expert opinions of two eagle researchers, Mr. John Mathisen, formerly with the U.S. Forest Service in northern Minnesota, and Ms. Joan Galli, Minnesota Department of Natural Resources, suggest that this expansion project should have no appreciable effect on the nesting pair of eagles.

The BA utilizes the revised data developed for the Supplement to the DEIS. The numbers of monthly operations for Flight Track 16 in the revised data for both existing use (1999) and year 2010 projections are less than one half of those originally provided in the DEIS. Based on the above information and analysis in the BA, the Service concurs with the conclusion that the proposed expansion of Flying Cloud Airport is not likely to adversely affect the bald eagles nesting near the Airport in the Wilkie Unit of the Refuge.

Bird-Aircraft Hazards

Upon acquisition of remaining lands within the Upgrala Unit of the Refuge, the Service intends to restore all former agricultural fields adjacent to and near the Airport to a floodplain forest community. This habitat restoration will reduce the use of this area by feeding and resting Canada geese, which are considered to be a strike threat to aircraft.

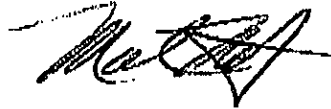
Mr. Glen Orcutt

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If you have questions concerning these comments, please contact Mr. Lyn MacLean of my staff at (612) 713-5330 or Mr. Rick Schultz, Refuge Manager of the Minnesota Valley National Wildlife Refuge, at (952) 858-0701. Upon release of the Supplement to the DEIS, the Service would appreciate having courtesy copies provided directly to the two Service representatives above, as well as to Mr. Russ Peterson at the Twin Cities Field Office.

We appreciate the efforts made by the FAA, MAC, and HNTB in coordinating with the Service to address our concerns, and we look forward to continued cooperation.

Sincerely,



Martin F. Martin
Acting Regional Director

cc: Ms. Jane F. Garvey
Administrator
Federal Aviation Administration
800 Independence Avenue, SW
Washington, D.C. 20591

Mr. Mark Ryan
Metropolitan Airports Commission
2901 Metro Drive, Suite 525
Bloomington, Minnesota 55425

Mr. Terry Martin
Office of Environmental Policy and Compliance
U.S. Department of the Interior
Washington, D.C. 20240

Mr. Mike Madell
National Park Service
700 Rayovac Drive, Suite 100
Madison, Wisconsin 53711

ATTACHMENT C

**FINAL AGREEMENT AND MEMORANDUM OF
UNDERSTANDING BETWEEN THE CITY OF EDEN
PRAIRIE AND THE METROPOLITAN AIRPORTS
COMMISSION**

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FINAL AGREEMENT
CONCERNING FLYING CLOUD AIRPORT
AND MAC ORDINANCE No. 51
BETWEEN
THE CITY OF EDEN PRAIRIE, MINNESOTA
AND
THE METROPOLITAN AIRPORTS COMMISSION

December 2002

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WHEREAS, Minnesota Statutes Section 473.641 subdivision 4 prohibits MAC from extending the runway length at minor airports beyond 5,000 feet without prior legislative authorization; and

WHEREAS, two members of the Eden Prairie City Council and two members of the MAC Commission signed a Memorandum of Understanding on December 4, 2001, which was endorsed by the MAC Planning and Environmental Committee and the Eden Prairie City Council on December 4, 2001 and by the MAC Commission on December 17, 2001; and

WHEREAS, MAC and Eden Prairie presented the Memorandum of Understanding to officials of the Federal Aviation Administration; and

WHEREAS, the Memorandum of Understanding recommended that MAC and Eden Prairie draft and execute a final agreement consistent with the terms of the Memorandum of Understanding and the FAA's comments on the Memorandum of Understanding.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants contained herein, Eden Prairie and MAC hereby agree as follows:

ARTICLE 1 DEFINITIONS

As used in this Agreement, the words and phrases defined below have the following meanings:

- 1.1 **Agreement** means this Final Agreement Concerning Flying Cloud Airport and Ordinance No. 51 and all exhibits and attachments hereto.
- 1.2 **Airport** means Flying Cloud Airport, Eden Prairie, Minnesota.
- 1.3 **Airport User** means the owner or operator of an aircraft who conducts a take off, landing, or other aircraft operation of any kind, including maintenance and repair, at the Airport during the effective period of this Agreement.
- 1.4 **Amended Ordinance No. 51** means the ordinance attached hereto as Exhibit 1 which is intended to replace Ordinance No. 51 and provide mandatory limits on the operation of aircraft to, from, and at the Airport.
- 1.5 **Designated Representative of Eden Prairie** means the City Manager of the City of Eden Prairie or the individual appointed by the City Manager, as communicated to MAC in writing, to act as the designated representative.
- 1.6 **Eden Prairie** means the municipal corporation of Eden Prairie, Minnesota.

- 1.7 **FAA** means the Federal Aviation Administration, United States Department of Transportation, or any successor agency or department.
- 1.8 **Final FAA Decision** means a decision of the FAA subject to judicial review pursuant to 49 U.S.C. §46110 and/or 5 U.S.C. §§ 701 – 706, as each may be amended, or any successor law or judicial decision relating to judicial review of FAA decisions.
- 1.9 **Fixed Base Operator** means an individual or company providing commercial aeronautical services at the Airport such as one or more of the following: aircraft maintenance and repair, fueling, aircraft storage, aircraft sales, and flight instructions.
- 1.10 **MAC** means the Metropolitan Airports Commission, authorized by L.1943, c.500.
- 1.11 **MOU** means the Memorandum of Understanding Concerning Flying Cloud Airport and Ordinance No. 51 executed on December 4, 2001, by two members of the Eden Prairie City Council and two members of the Metropolitan Airports Commission and endorsed by the Eden Prairie City Council and the MAC Commission.
- 1.12 **Major Air Cargo Operations** means the operation of a business engaged principally in the transportation of cargo, whose operations at Flying Cloud Airport would involve the operation of aircraft weighing more than 60,000 pounds and/or whose facilities at the Airport would exceed 80,000 square feet in size.
- 1.13 **Nighttime Aircraft Operation** means any takeoff or landing of an aircraft at Flying Cloud Airport between the hours of 10:00 p.m. local time and 6:00 a.m. local time.
- 1.14 **Nighttime Currency Requirements** means the nighttime training requirements of 14 C.F.R. Part 91, as the same may be amended from time to time.
- 1.15 **Ordinance No. 51** means the ordinance adopted by MAC on January 16, 1978 concerning the operation of jet aircraft at Flying Cloud Airport.
- 1.16 **Part 139 Certification** means an airport operating certificate issued by the FAA pursuant to 14 C.F.R. Part 139, authorizing an airport operator to accept scheduled and unscheduled passenger operations of an air carrier. For purposes of this Agreement, 14 C.F.R. Part 139 includes the regulation in effect as of the date of this Agreement and amendments to Part 139 that are consistent with amendments proposed by the FAA at 65 Fed. Reg. 38,636 (2000), but does not otherwise include future amendments to the regulation or any successor regulation.
- 1.17 **Passenger Facility Charge** means the passenger facility charge described in 49 U.S.C. § 40117, as the same may be amended from time to time.
- 1.18 **Proposed Airport Expansion** means capital improvements at the Airport proposed by MAC, described and depicted as Alternative F in the Supplement to the Draft Environmental Impact Statement, Expansion of Flying Cloud Airport

(August 2001), attached as Exhibit 2 (without appendices), including, but not limited to, extension of the two parallel runways, development of property for new hangar construction, acquisition of additional property, and any minor changes in the proposed capital improvements.

- 1.19 **Runway Weight Bearing Capacity** means the weight-bearing capacity of the Airport runways as determined by an engineering study and is: maximum gross takeoff weight 60,000 pounds, dual wheel.
- 1.20 **Stage 2 Aircraft** means an aircraft that has been certificated as meeting the Stage 2 noise levels prescribed in FAR pt. 36, App. C, § C36.5 and that does not meet the Stage 3 noise levels prescribed therein.

ARTICLE 2

CONDITIONS PRECEDENT

- 2.1 **Conditions Precedent.** This Agreement shall not be effective unless and until the following occurs:
 - 2.1.1 MAC adopts an ordinance substantially the same as Exhibit 1 (“Amended Ordinance No. 51”).
 - 2.1.2 Eden Prairie adopts a resolution substantially the same as Exhibit 3, repealing Resolution No. 88-299 and Resolution No. 92-124.
 - 2.1.3 Eden Prairie amends the City of Eden Prairie Comprehensive Guide Plan to include a chapter on the Airport substantially the same as Exhibit 4.

ARTICLE 3

MAC COMMITMENTS AND REPRESENTATIONS

- 3.1 **Amended Ordinance No. 51.** MAC shall implement and enforce Amended Ordinance No. 51 on and after the effective date identified therein.
- 3.2 **Runway Length.** MAC shall not take any action to increase the length of the runways at the Airport in excess of the length contemplated in the Proposed Airport Expansion, unless required to do so by State law, provided that MAC will not initiate, promote, or otherwise support enactment of such law.
- 3.3 **Pavement Strength.** MAC shall not take any action to increase the Runway Pavement Weight-Bearing Capacity at the Airport, unless required to do so by State law, provided that MAC will not initiate, promote, or otherwise support enactment of such law.
- 3.4 **Part 139 Certification.** MAC shall not apply for Part 139 Certification at the Airport to provide facilities for air carrier operations.

3.5 **Voluntary Restraint on Nighttime Aircraft Operations and Recommended Procedures for Early Morning Departures.** MAC shall implement a program of voluntary restraints on Nighttime Aircraft Operations, except operations between 10:00 p.m. and 12:00 a.m. conducted to meet Nighttime Currency Requirements. Within six months of the effective date of this Agreement, MAC shall identify and evaluate specific operational procedures that would limit the noise impact of aircraft operations between 6:00 a.m. and 7:00 a.m., which procedures could include, but are not limited to, dispersion of aircraft departures, defined flight routes, or noise abatement departure procedures. Upon completion of this evaluation, MAC shall adopt those operational procedures that are mutually acceptable to MAC and Eden Prairie.

3.6 **Limits on Operations of Stage 2 Aircraft**

3.6.1 MAC shall implement a voluntary program to preclude all operations at the Airport by Stage 2 Aircraft.

3.6.2 In the event that the number of departures at the Airport by Stage 2 Aircraft exceeds seventy-five (75) in any rolling twelve-month period, MAC shall prohibit operations by all Stage 2 Aircraft from operating at the Airport; provided that Eden Prairie may, in its sole discretion, waive this requirement if Eden Prairie determines that unusual or unique circumstances caused the number of departures by Stage 2 Aircraft to exceed seventy-five.

3.6.3 Before implementing the prohibition on Stage 2 Aircraft identified in Section 3.6.2, MAC shall complete any necessary procedural steps as required under federal law, including a study required by 14 C.F.R. Part 161, as the same may be amended in the future ("Part 161 Study").

3.6.3.1 MAC shall perform the Part 161 Study in a thorough and professional manner.

3.6.3.2 MAC shall consult closely with Eden Prairie in preparing a scope of work and evaluating and selecting a consultant to perform the Part 161 Study.

3.6.3.3 MAC shall seek acknowledgement from the FAA that the Part 161 Study complies with Part 161.

3.6.3.4 MAC shall prepare a second or supplemental study in the event that the FAA criticizes the Part 161 Study as legally inadequate or otherwise not in full compliance with Part 161.

3.6.3.5 The parties recognize that the Part 161 Study, including a second or supplemental study, could cost Five Hundred Thousand Dollars (\$500,000) or more.

3.7 **Noise Attenuation Testing and Sound Insulation**

3.7.1 MAC shall test the residences shown on Exhibit 5, in accordance with a methodology agreed upon by MAC and Eden Prairie, to determine the existing exterior to interior noise reduction level. MAC shall complete testing within two years from the date that the extended runways are made available for use.

3.7.2 In the event that any residence shown on Exhibit 5 has an exterior to interior noise attenuation of less than 20 dBA, MAC shall provide sound insulation to achieve a noise reduction of at least 20 dBA. MAC shall consult with Eden Prairie to determine the nature and extent of sound insulation to be provided for eligible residences. MAC shall complete sound insulation of all eligible residences within two years from the date that the extended runways are made available for use.

3.7.3 MAC shall provide testing and sound insulation pursuant to this Paragraph 3.7 regardless of whether funding is provided by the federal government.

3.7.4 No new residence for which final building permits were issued on or after December 4, 2001, shall be eligible to receive testing or sound insulation pursuant to this Paragraph 3.7.

3.8 **Cargo Operations.** MAC represents that, based on the commitments and representations contained in this Article 3, Major Air Cargo Operations will not be able to use the Airport.

3.9 **Nonexclusive Nature of Commitments and Representations.** The commitments and representations contained in this Article 3 are in addition to any existing, proposed, or future measure to control aircraft and Airport noise and the environmental consequences of Airport operations and development and do not prohibit or limit in any way (1) MAC's ability or responsibility to adopt other such measures as MAC may deem necessary and appropriate or be required to adopt, or (2) Eden Prairie's ability to request that MAC adopt other such measures.

3.10 **Implementation and Enforcement**

3.10.1 **Airport Operating Rules and Regulations.** MAC shall, within six months from the effective date of this Agreement, prepare and distribute

operating rules and regulations for Flying Cloud Airport that will contain the commitments and representations consistent with this Article 3 and Amended Ordinance No. 51 that affect the actions of Airport Users and Fixed Base Operators, other operational requirements and noise abatement measures that MAC has adopted previously, and any additional operational requirements and noise abatement measures as MAC, in its sole discretion, may choose to adopt and include.

- 3.10.2 **Letters of Intent.** MAC shall use its best efforts to negotiate with Fixed Base Operators, Airport Users who base aircraft at the Airport and other Airport Users, as determined by MAC, voluntary letters of intent committing the Fixed Base Operator or Airport User to (1) adhere to the voluntary limits on aircraft operations contained in this Article 3, and (2) participate actively in implementing and monitoring compliance with Amended Ordinance No. 51 and the measures contained in this Article 3.
- 3.10.3 **Notice to Fixed Base Operators and Airport Users.** MAC shall inform current and future Airport Users and Fixed Base Operators about the commitments contained in this Article 3 and Amended Ordinance No. 51 that affect aircraft operations at the Airport by publishing and keeping current notice in the following publications: Airport Facility Directory; Department of Defense Flight Information Manual; Jeppesen Information Manual; and relevant MAC publications.
- 3.10.4 **Pilot Education Program.** MAC shall implement a Pilot Education Program designed to inform Airport Users and Fixed Base Operators about the commitments contained in this Article 3 and Amended Ordinance No. 51 that affect the actions of Airport Users and Fixed Base Operators, other operational requirements and noise abatement measures that MAC has adopted previously, and any additional operational requirements and noise abatement measures as MAC, in its sole discretion, may choose to adopt and include. The Pilot Education Program may include, but will not be limited to, posting and display of information in facilities maintained by Fixed Base Operators and airfield signage. MAC will consult on at least an annual basis with the Designated Representative of Eden Prairie on the curriculum for and implementation of the Pilot Education Program.
- 3.10.5 **Award Program for Voluntary Compliance.** MAC will publicly recognize, through a certificate, award, or similar means, on an at least annual basis the actions and efforts of one or more Airport Users or Fixed Base Operators that avoid or promote avoidance of operations inconsistent with the voluntary limits contained in this Article 3.

3.10.6 Complaints and Investigation. MAC shall thoroughly investigate all credible complaints and information received from local residents, Eden Prairie, Airport Users, Fixed Base Operators, or any other source to determine whether a violation or failure to comply with a voluntary measure has occurred and take appropriate action as dictated by the relevant provision of this Article 3 or Amended Ordinance No. 51.

3.10.7 Enforcement. MAC shall coordinate and cooperate with Eden Prairie in the prosecution of any violation of Amended Ordinance No. 51.

3.10.8 Monitoring Compliance

3.10.8.1 MAC shall instruct all MAC employees working on a temporary or permanent basis at the Airport of the commitments of this Article 3 and Amended Ordinance No. 51 and provide instructions on procedures for notifying the proper parties of a potential violation or failure to comply with a voluntary measure.

3.10.8.2 MAC shall perform, on no less than a monthly basis, a review of the ANOMS flight track database to identify any and all Stage 2 Aircraft operations occurring at the Airport since the prior review. MAC shall keep a separate record of all Stage 2 Aircraft operations and provide the Designated Representative of Eden Prairie, on a quarterly basis, with a notice identifying the date and time of each Stage 2 Aircraft operation in the quarter and a total of all Stage 2 Aircraft operations in the preceding rolling twelve months.

3.10.9 Notice of Operation Inconsistent with Voluntary Measure. MAC shall send a written notice to the owner or operator of any aircraft known to have operated in a manner inconsistent with the voluntary restraints on Nighttime Aircraft Operations, early morning departures (as developed and modified pursuant to Paragraph 3.5), and operations by Stage 2 Aircraft. The notice shall provide information about the inconsistent operation, state that MAC's policy is to limit voluntarily inconsistent operations, and request that the owner or operator provide a detailed response describing the reason for the inconsistent operation. MAC shall maintain a record of all such correspondence and provide copies of such correspondence to the Designated Representative of Eden Prairie.

3.10.10 Eden Prairie Involvement

3.10.10.1 MAC shall provide the Designated Representative of Eden Prairie with a copy of all notices to or other correspondence with

Airport Users and Fixed Base Operators concerning any identified violation or failure to comply with a voluntary measure.

3.10.10.2 MAC shall provide Eden Prairie, upon reasonable notice, access to the Airport, accompanied by a MAC employee, to inspect any facility to which MAC has access.

3.10.10.3 MAC will make presentations to the Eden Prairie City Council as requested concerning MAC's implementation and enforcement of the commitments contained in this Article 3.

ARTICLE 4

EDEN PRAIRIE COMMITMENTS AND REPRESENTATIONS

4.1 Eden Prairie Support for MAC Commitments and Representations. Eden Prairie supports MAC's adoption of Amended Ordinance No. 51 and the commitments and representations contained in Article 3.

4.2 Eden Prairie Support for Proposed Airport Expansion

4.2.1 Eden Prairie shall not file or serve a complaint or other pleading with any court challenging the Proposed Airport Expansion or the Environmental Impact Statement concerning the Proposed Airport Expansion.

4.2.2 Eden Prairie shall not file with the FAA or other governmental authority comments that state or imply that the Proposed Airport Expansion should not occur, that MAC should consider or pursue an alternative to the Proposed Airport Expansion, or, subject to Paragraph 4.2.5.1, that the Environmental Impact Statement concerning the Proposed Airport Expansion is inadequate.

4.2.3 Eden Prairie shall not advocate against the Proposed Airport Expansion by attempting to persuade the FAA or other governmental authority not to approve, authorize, or permit the Proposed Airport Expansion or the Environmental Impact Statement for the Proposed Airport Expansion.

4.2.4 Eden Prairie shall not promote, represent or in any way support any third party in opposing the Proposed Airport Expansion or the Environmental Impact Statement for the Proposed Airport Expansion, including without limitation by drafting documents for the purpose of supporting the opposition of such parties.

4.2.5 The following actions shall not constitute violations of Eden Prairie's commitments under this Paragraph 4.2:

4.2.5.1 In the interest of protecting the health, safety and welfare of members of the community, Eden Prairie may request that MAC

provide additional disclosures concerning the environmental consequences of the Proposed Airport Expansion, and Eden Prairie may promote mitigation of any environmental consequences other than mitigation measures and environmental consequences addressed in this Agreement.

4.2.5.2 Eden Prairie may disclose documents as required by the Minnesota Data Practices Act or as otherwise required by Minnesota law.

4.2.5.3 Officials and employees of Eden Prairie may take any action concerning the Proposed Airport Expansion so long as such officials and employees are not acting on behalf of Eden Prairie.

4.2.5.4 Eden Prairie may oppose or take any other action concerning capital improvement projects or other MAC actions that (1) require supplementing the Environmental Impact Statement as prescribed by FAA Order 5050.4A Section 104, as the same may be amended in the future, or (2) that are in addition to the Proposed Airport Expansion.

4.3 Eden Prairie Commitments on Land Use Compatibility. Eden Prairie shall notify MAC of any public hearing at which Eden Prairie will consider amending the Eden Prairie Comprehensive Guide Plan to permit development of residences on any property that is shown in the then-current Comprehensive Guide Plan as being exposed to Airport noise in excess of DNL 60 dB.

ARTICLE 5 THIRD PARTY CHALLENGES

5.1 Duty to Defend. If any party, including without limitation any individual, organization, corporation, association, or government agency (including the FAA), challenges or contests the legality of this Agreement, the authority of either party to enter into this Agreement, Amended Ordinance No. 51, the other commitments or representations contained in this Agreement, the Part 161 Study, or any action taken to comply with this Agreement, in any judicial, administrative, or similar forum, MAC and Eden Prairie shall, except as expressly provided in this Agreement, take the following action(s):

5.1.1 Defend vigorously this Agreement, the authority of either party to enter into this Agreement, Amended Ordinance No. 51, the other commitments or representations contained in this Agreement, the Part 161 Study, or any action taken to comply with this Agreement.

5.1.2 Oppose and defend against any attempt to prevent either party from performing any or all of the requirements contained in this Agreement.

- 5.1.3 Prosecute fully such defense or opposition provided for above and, if the judicial, administrative or other action or proceeding is not dismissed voluntarily, obtain a final order or decision from the judicial, administrative or other decisionmaker, including without limitation a final, appealable trial court decision or Final FAA Decision.
 - 5.1.4 Each party shall support any request by the other party to intervene or participate in any such judicial, administrative or other action or proceeding.
 - 5.1.5 Each party promptly shall provide the other party with a copy of any correspondence, complaint, filings, pleadings, court orders or other non-privileged writing concerning an administrative or judicial proceeding or action described herein.
- 5.2 **MAC's Authority to Defer Enforcement or Implementation of Commitment.** MAC may defer enforcement or implementation of any commitment contained in this Agreement only as follows:
- 5.2.1 During the pendency of any proceeding or action described in Paragraph 5.1, but only if the FAA asserts in writing that immediate deferral is legally required to retain eligibility for state or federal financial assistance, including eligibility to receive discretionary Airport Improvement Program funds, or to retain authority to impose, collect or use Passenger Facility Charges;
 - 5.2.2 For a period of not longer than sixty (60) days to respond to a written request by the FAA to defer enforcement but only if MAC reasonably believes that the deferral is necessary to retain eligibility for state or federal financial assistance, including eligibility to receive discretionary Airport Improvement Program funds, or to impose, collect or use Passenger Facility Charges and only if MAC works within the sixty day period to address FAA's concerns; or
 - 5.2.3 As strictly necessary to comply with an order of a court of competent jurisdiction.
 - 5.2.4 Each party promptly shall provide the other party with a copy of any letter, court order or other writing referred to in this Paragraph 5.2, or any subsequent letter, court order or other writing regarding the same subject.
- 5.3 **Duties in Response to Adverse Judicial or Administrative Decision.** In the event a Final FAA Decision or appealable court decision determines that a commitment or representation contained in this Agreement, excluding the commitment contained in Paragraph 3.6.2, is unlawful, would render MAC ineligible for state or federal financial assistance, including discretionary Airport Improvement Program funds, would terminate MAC's authority to impose, collect or use Passenger Facility Charges, or otherwise prevents MAC from performing as required in this Agreement, MAC shall adopt alternative measures

designed to guarantee that the total number of residences projected (five years from the date of the Final FAA decision or appealable court decision) to be exposed to noise associated with the Airport in excess of DNL 60 dB shall be no greater than the number of residences MAC and Eden Prairie mutually agree reflects the number of residences that are projected (after the same five years) to be exposed to noise in excess of DNL 60 dB if the commitments or restriction contained in Article 3 were fully in force and effect.

5.3.1 The alternative measures shall include mandatory measures or a combination of mandatory and voluntary measures but shall not include voluntary measures alone.

5.3.2 In the event that Eden Prairie and MAC are unable to agree on whether the proposed measures would achieve the standard contained in this Paragraph 5.3, the parties shall complete the formal mediation described in Article 6. In the event that the parties are unable to agree after completing formal mediation, the parties shall submit to binding arbitration. The scope of the mediation and arbitration shall not include consideration of whether MAC is obligated to adopt a measure that will satisfy the standard contained in this Paragraph 5.3.

5.3.3 Notwithstanding the above, no proposed agreement, measure or judgment in arbitration shall render MAC ineligible for state or federal financial assistance, including discretionary Airport Improvement Program funds, or terminate MAC's authority to impose, collect or use Passenger Facility Charges

5.4 **Duties in Response to Adverse Judicial or Administrative Decision on Stage 2 Ban.** In the event a Final FAA Decision or appealable court decision determines that a mandatory prohibition on operations at the Airport by Stage 2 Aircraft imposed pursuant to Paragraph 3.6.2 is unlawful, would render MAC ineligible for state or federal financial assistance, including discretionary Airport Improvement Program funds, or would terminate MAC's authority to impose, collect or use Passenger Facility Charges, MAC shall be excused from the obligation to implement the prohibition on Stage 2 Aircraft, provided that MAC shall continue to limit operations by Stage 2 Aircraft at the Airport pursuant to Paragraph 3.6.1.

ARTICLE 6

DISPUTE RESOLUTION

6.1 **Notice of Default.** At no time shall Eden Prairie or MAC be deemed to be in default under, or breach of, this Agreement unless and until the other party has provided written notice to the parties identified in Paragraph 8.4 specifying such alleged breach or default ("Notice of Default") and such alleged breach or default has not been cured as provided in Paragraph 6.2.

- 6.2 **Right to Cure Default.** The party who has received a Notice of Default shall have thirty (30) days in which to cure the alleged breach or default and provide notice to the other party that such alleged breach or default has been cured.
- 6.3 **Informal Dispute Resolution.** Immediately after receipt of a Notice of Default, the Executive Director of MAC and the City Manager of Eden Prairie shall meet and attempt to resolve the matter.
- 6.4 **Formal Mediation.** If the parties fail to resolve the matter informally under Paragraph 6.3 within thirty (30) days, the parties shall submit their dispute to a mediator. The parties shall have ten (10) days to select a mediator. If the parties are unable to agree upon a mediator, the Chief Judge of the 4th Judicial District, Hennepin County, Minnesota, shall select a mediator. The mediation shall be conducted pursuant to the rules generally used by the mediator in the mediator's practice, provided that the entire mediation process be concluded within 30 days of appointment of the mediator, or within such other time as the parties may agree in writing. If the mediation process fails to resolve the matter, both informal and formal dispute resolution shall be deemed to be complete.
- 6.5 **Costs of Alternative Dispute Resolution.** Each party shall bear its own costs of the informal dispute resolution process and formal mediation process described above. The parties shall share equally the fees and expenses of the mediator.
- 6.6 **Dispute Resolution Process Mandatory.** No action shall be commenced in any court to enforce or otherwise apply, interpret, or seek cure for a breach of, this Agreement, excluding an action requesting preliminary or temporary relief, before the completion of the informal and formal dispute resolution process set forth in this Article 6. Neither party shall assert, plead, raise, allege, or rely upon the applicable statute of limitations, laches, timeliness, delay, or any other defense based on the passage of time during the dispute resolution process in any subsequent judicial or administrative proceeding. The dispute resolution provisions set forth in this Article 6 shall apply only to MAC and Eden Prairie, and shall not apply to any successor in interest to either Party.
- 6.7 **Confidentiality.** The alternative dispute resolution process described in this Article 6 constitutes compromise negotiation for purposes of applicable rules of evidence. Information prepared for or disclosed during the alternative dispute resolution process shall be inadmissible in evidence pursuant to Rule 408 of the Federal Rules of Evidence or Rule 408 of the Minnesota Rules of Evidence, and shall be withheld from disclosure to the maximum extent permissible under the Minnesota Data Practices Act and other applicable laws.
- 6.8 **Waiver of Rights.** The failure of either party to object to, or to take affirmative action with respect to, any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of such violation or breach, or of any future violation, breach or wrongful conduct. Subsequent acceptance of performance under this Agreement by Eden Prairie or MAC shall not be deemed to be a waiver of any preceding breach by the other Party of the terms of this

Agreement, regardless of Eden Prairie's or MAC's knowledge of such preceding breach at the time of acceptance of performance. No waiver or relinquishment of a right or power under this Agreement shall be deemed a waiver of such right or power at any other time, nor shall any failure of either party to require or exact full and complete compliance with any of the covenants or conditions of this Agreement be construed as changing in any manner the terms hereof or preventing either party from enforcing the full provisions hereof.

ARTICLE 7 **REMEDIES**

- 7.1 **General Remedies: Specific Performance and Injunctive Relief.** The parties acknowledge and agree that damages as a result of a breach of this Agreement by either party are not readily ascertainable, that money damages or other legal relief will not adequately compensate for any such breach, and that the party that has not breached this Agreement is entitled to specific performance of those obligations under this Agreement and/or injunctive relief to compel performance of those obligations. Subject to the right to seek specific performance, stated above, the parties expressly reserve their right to oppose a request by the other party for a preliminary or permanent injunction, including grounds that the party seeking relief would not suffer irreparable harm as a result of such breach.
- 7.2 **Specific Remedies.** The parties further acknowledge that the breach of certain commitments and representations provided for in this Agreement necessitate different remedies, including the following:
- 7.2.1 **Eden Prairie Commitments Concerning Proposed Airport Expansion.** In the event that Eden Prairie has been found by a court of competent jurisdiction to have breached the commitments contained in Paragraph 4.2 concerning the Proposed Airport Expansion, MAC shall be relieved of its commitments and representations contained in this Agreement as it chooses, and this Agreement otherwise shall be voidable by MAC.
- 7.2.2 **MAC Commitments and Representations.** In addition to any remedy that might be available under Paragraph 7.1, in the event that MAC is found by a court of competent jurisdiction to have breached the commitments and representations contained in Article 3, Eden Prairie shall be relieved of its commitments and representations contained in Article 4 as it chooses.

ARTICLE 8 **GENERAL PROVISIONS**

- 8.1 **Duration.** This Agreement shall remain in full force and effect unless and until terminated by written agreement of both parties.
- 8.2 **Amendment.** This Agreement may be altered, amended or modified only by a written instrument executed pursuant to the governmental consent of both Eden

Prairie and MAC. Neither this Agreement, nor any term hereof, may be changed, modified or abandoned, in whole or in part, except by instrument in writing.

8.3 **Headings.** Headings have been inserted herein only as a matter of convenience and for reference, and are not to be considered when construing the provisions of this Agreement.

8.4 **Notices.** Where the terms of this Agreement provide that either party will furnish or provide any document or material to the other party, unless otherwise provided herein, such document or material shall be delivered by hand to each party at the following address, respectively:

If to Eden Prairie: City Manager
City of Eden Prairie
8080 Mitchell Road
Eden Prairie, MN 55344
(952) 949-8399
(952) 949-8390 (fax)

With a copy to: Richard F. Rosow, City Attorney
Gregerson, Rosow, Johnson & Nilan, Ltd.
1600 Park Building
650 Third Avenue South
Minneapolis, MN 55402-4337
(612) 338-0755
(612) 349-6718 (fax)

If to MAC: Jeffrey W. Hamiel, Executive Director
Metropolitan Airports Commission
6040 28th Avenue South
Minneapolis, MN 55450-2799
(612) 726-8188
(612) 726-5306 (fax)

With a copy to: Thomas W. Anderson, General Counsel
Metropolitan Airports Commission
6040 28th Avenue South
Minneapolis, MN 55450-2799
(612) 726-8178
(612) 726-5306 (fax)

8.4.1 Such notice shall be deemed to have been received on the date of its delivery to the above-listed address.

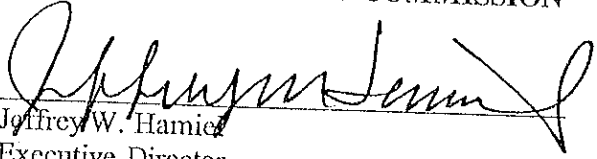
8.4.2 If hand delivery is not possible, the document or material shall be sent to the above-listed address by overnight express courier service, and shall be

deemed to have been received on the first business day after the date of its receipt by the express courier service.

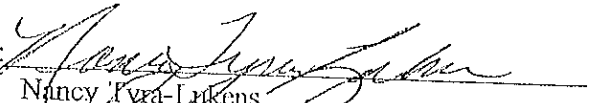
- 8.5 **Exhibits.** Exhibits 1 through 5 of this Agreement are incorporated herein by reference and made a part hereof.
- 8.6 **Counterparts.** This Agreement may be executed in four counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.
- 8.7 **Governing Law.** This Agreement shall be subject to and governed by the laws of the State of Minnesota.
- 8.8 **Severability.** If any provision, paragraph, or subparagraph of this Agreement is adjudged by any court to be invalid, illegal, or unenforceable in whole or in part, this adjudication will not affect the validity of the remainder of this Agreement, including any other provision, paragraph, or subparagraph. In the event that any of the commitments or representations contained in Article 3 is adjudged by any court to be invalid, illegal, or unenforceable in whole or in part, Section 5.3 shall survive as an independent obligation.
- 8.9 **No Third-Party Beneficiary.** This Agreement is solely for the benefit of the parties hereto and no third party shall be entitled to claim or enforce any rights hereunder except as specifically provided in this Agreement.
- 8.10 **Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the successors in interest and assigns of Eden Prairie and of MAC.
- 8.11 **Complete Agreement.** This Agreement embodies and supercedes, to the extent of any inconsistency, all of the representations, warranties, covenants and agreements of the parties in relation to the subject matter hereof.
- 8.12 **Change in Law.** If either party believes that a new federal or Minnesota statute or regulation may result in either party being unable to perform any obligation contained in this Agreement, MAC and Eden Prairie shall meet and confer to discuss in good faith (1) the specific effect of the change in law on this Agreement and (2) whether there are possible amendments to this Agreement that will confer substantially the same benefits as this Agreement and conform to the new or amended federal or Minnesota statute or regulation. The parties shall treat each obligation as independent and allow the change in law to affect performance under this Agreement only to the extent made necessary by the change in law.


IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

METROPOLITAN AIRPORTS COMMISSION

BY: 
Jeffrey W. Hamiec
Executive Director

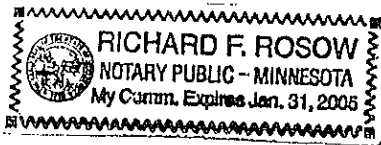
CITY OF EDEN PRAIRIE, MINNESOTA

BY: 
Nancy Tyra-Lukens
Mayor

BY: 
Scott Neal
City Manager

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

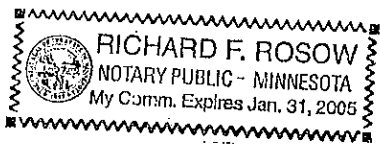
The foregoing instrument was acknowledged before me this 17 day of December, 2002, by Nancy Tyra-Lukens, Mayor, on behalf of the City of Eden Prairie, a municipal corporation.



Richard F. Rosow
Notary Public

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this 17 day of December, 2002, by Scott Neal, City Manager, on behalf of the City of Eden Prairie, a municipal corporation.



Richard F. Rosow
Notary Public

EXHIBITS

Exhibit 1: Amended Ordinance No. 51

Exhibit 2: Supplement to the Draft Environmental Impact Statement (August 2001)

Exhibit 3: Eden Prairie Resolution Repealing Resolutions No. 88-299 and No. 92-124

Exhibit 4: Chapters of Eden Prairie Comprehensive Guide Plan Update on Flying Cloud Airport

Exhibit 5: Map of Residences Scheduled for Exterior to Interior Noise Attenuation Testing

EXHIBIT 1

METROPOLITAN AIRPORTS COMMISSION ORDINANCE NO. 97

An Ordinance of the Metropolitan Airports Commission relating to the management and operation of its airports, adopted to promote the public health, peace, welfare and safe operations; restricting the operations of aircraft at and from Flying Cloud Airport; and prescribing the penalties for violation thereof.

WHEREAS, on January 16, 1978, MAC adopted Ordinance No. 51, which prohibits the operation of jet aircraft at Flying Cloud Airport except jet aircraft with a maximum takeoff weight of 20,000 pounds or less; and

WHEREAS, by correspondence dated September 27, 2000, October 13, 2000, and January 30, 2001, the Federal Aviation Administration stated that it believed that Ordinance No. 51 was inconsistent with Federal law and MAC's contractual obligations to the Federal government and that MAC accordingly should develop a plan to amend or repeal Ordinance No. 51; and

WHEREAS, MAC and the City of Eden Prairie have negotiated a Memorandum of Understanding and Final Agreement concerning Flying Cloud Airport and Ordinance No. 51, which Final Agreement is contingent upon MAC amending Ordinance No. 51 in a manner substantially the same as provided herein; and

WHEREAS, MAC intends to amend Ordinance No. 51 in such manner as will preserve certain of the protections afforded Ordinance No. 51 as a restriction adopted prior to the enactment of the Airport Noise and Capacity Act of 1990; and

WHEREAS, this Ordinance No. 97 is also referred to as Ordinance No. 51 as amended.

Now, therefore, the Metropolitan Airports Commission does ordain to amend Ordinance No. 51 to read as follows:

SECTION 1 - DEFINITIONS

- 1.1 Airport. Flying Cloud Airport, a public airport owned by and under the supervision, operation, direction and control of the Commission, and located in the County of Hennepin and State of Minnesota.
- 1.2 Certified Maximum Gross Takeoff Weight. The maximum takeoff weight of an aircraft as designed and certified by the manufacturer and does not refer to the actual weight of an aircraft or any variant to the certified weight issued by the manufacturer or the Federal Aviation Administration.

- 1.3 Commission. The Metropolitan Airports Commission, a public corporation of the State of Minnesota.
- 1.4 Maintenance Run-Up. The sustained operation of an aircraft engine for the purposes of maintenance, repair or testing. A Maintenance Run-Up does not include the operation of an aircraft engine in direct conjunction with a takeoff or landing, including the run-up of an aircraft engine performed immediately prior to takeoff.
- 1.5. Person. Any natural person, corporation, partnership, association or other legal entity having legal authority over the operation of jet aircraft to, at or from the Airport or who is in actual control as pilot of such aircraft.

SECTION 2 - AIRCRAFT OPERATIONS

- 2.1 Curfew on Maintenance Run-ups. Maintenance Run-Ups at Flying Cloud Airport between 10:00 p.m. (2200) local time and 7:00 a.m. (0700) local time are prohibited.
- 2.2 Aircraft Weight Restriction. The taking off or landing of any aircraft at Flying Cloud Airport with a Certified Maximum Gross Takeoff Weight of 60,000 pounds or greater is prohibited.
- 2.3 Exceptions. The terms of this Ordinance shall not apply in the case of an emergency and shall not apply to aircraft owned and operated by the U.S. Government. The prohibition identified in Section 2.1 does not apply to unscheduled Maintenance Run-Ups performed between 10:00 p.m. and 7:00 a.m. where strict compliance with the prohibition would not allow sufficient time to permit the aircraft to depart on schedule the following morning. Any aircraft owner or operator claiming to qualify for an exception, excluding the owner or operator of a U.S. Government aircraft, must notify the Commission within 24 hours by submitting the form designated by the Commission's Director of Reliever Airports or the Director's designated representative for this purpose.

SECTION 3 - PENALTY. Willful violation of the terms hereof by any Person operating or in legal control of aircraft shall constitute a misdemeanor and upon conviction shall be punished by sentence in accordance with Minnesota Statutes, Section 609.03 or as the same may from time to time be amended.

SECTION 4 - COMMISSION RIGHT TO ACTION. Prosecution and conviction under this Ordinance shall be without prejudice to and the Commission shall have such civil rights at law or equity as Airport owner and operator and as persist under agreements now or hereafter in effect between it and Persons having legal authority over and control of the operation of an aircraft to, at or from the Airport, including lease agreements.

SECTION 5 - SAVING CLAUSE. If any part, provision or provisions of this Ordinance shall be held to be unconstitutional or otherwise illegal, such unconstitutionality or illegality shall not

effect the validity of remaining parts of the Ordinance, and the Commission hereby declares that it would have passed the remaining parts of this Ordinance in any event, had it known that such part, provision or provisions might be unenforceable because unconstitutional or illegal.

SECTION 6 - REPEALER. As of the effective date of this Ordinance, the Commission's Ordinance No. 51 is repealed except as provided herein.

SECTION 7 - EFFECTIVE DATE. This Ordinance shall be of full force and effect immediately upon adoption of this Ordinance and upon filing of same with proof of publication with the Secretary of State of the State of Minnesota.

EXHIBIT 2

SUPPLMENT TO
THE DRAFT ENVIRONMENTAL IMPACT STATEMENT,
EXPANSION OF FLYING CLOUD AIRPORT
(AUG. 2001) (WITHOUT APPENDICES)

EXHIBIT 3

CITY OF EDEN PRAIRIE
HENNEPIN COUNTY, MINNESOTA

RESOLUTION NO. 02-_____

RESOLUTION REPEALING RESOLUTIONS No. 88-299 and 92-124

WHEREAS, the Metropolitan Airports Commission (hereinafter "MAC") owns and operates Flying Cloud Airport; and

WHEREAS, Flying Cloud Airport is located entirely within the geographic and jurisdictional boundaries of the City of Eden Prairie; and

WHEREAS, on January 16, 1978, MAC adopted Ordinance No. 51, which prohibited the operation of jet aircraft at Flying Cloud Airport except jet aircraft with a maximum takeoff weight of 20,000 pounds or less; and

WHEREAS, MAC has proposed to expand Flying Cloud Airport for the purpose of diverting more general aviation traffic to the Airport by, among other improvements, extending the length of the two parallel runways and developing property for new hangar construction; and

WHEREAS, by public statements and other actions, including the adoption of Resolution No. 88-299, adopted December 20, 1988 and Resolution No. 92-124, adopted June 2, 1999 Eden Prairie has opposed the expansion of Flying Cloud Airport because of the noise and other environmental consequences projected to result from such expansion; and

WHEREAS, the Eden Prairie City Council and the MAC Commission have approved that certain **FINAL AGREEMENT CONCERNING FLYING CLOUD AIRPORT AND ORDINANCE 51**, dated December 2002 (hereinafter the "Final Agreement") which concerns the expansion of the Flying Cloud Airport and the amendment of MAC Ordinance 51;

WHEREAS, the Final Agreement is not effective unless, among other matters, MAC adopts Ordinance 97 as an amendment to Ordinance 51 and the City repeals Resolution 88-299 and Resolution 92-124; and

WHEREAS, on December 16, 2002 MAC adopted Ordinance 97 as an amendment to Ordinance 51 as set forth in the Final Agreement.

NOW THEREFORE, BE IT RESOLVED BY THE EDEN PRAIRIE CITY COUNCIL,
THAT:

Resolution 88-299 and Resolution 92-124 are hereby repealed.

ADOPTED by the Eden Prairie City Council on December 17, 2002.

Nancy Tyra-Lukens, Mayor

(Seal)

ATTEST:

KATHLEEN PORTA, CITY CLERK.

EXHIBIT 4

**CITY OF EDEN PRAIRIE COMPREHENSIVE PLAN UPDATE
CHAPTER 2: VISION, GOALS AND POLICIES**

AVIATION GOALS

AVIATION GOAL 1	Promote land use compatibility between Flying Cloud Airport and surrounding land uses.
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Policies

The City shall:

1. Review proposed development on land proximate to the airport, and notify the Metropolitan Airports Commission of any proposals, to determine consistency between proposed development and the airport with respect to safety and noise.
2. Support implementation of the Final Agreement Concerning Flying Cloud Airport and MAC Ordinance No. 51 Between the City of Eden Prairie and the Metropolitan Airports Commission entered into on December 17, 2002.
3. Support maintaining the Flying Cloud Airport as a "minor use" airport not improved beyond the design criteria of this functional classification.

AVIATION GOAL 2	Minimize the impact of aircraft noise upon noise-sensitive land uses.
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Policies

The City shall:

1. Support the Metropolitan Council's Land Use Compatibility Guidelines for Aircraft Noise for new development.
2. Support implementation of the Final Agreement Concerning Flying Cloud Airport and MAC Ordinance No. 51 Between the City of Eden Prairie and the Metropolitan Airports Commission entered into on December 17, 2002.

3. Encourage and support the noise abatement programs for the airport.

AVIATION GOAL 3	Support action by the Metropolitan Airports Commission to protect land areas within defined State Safety Zones.
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Policies

The City shall:

1. Support the Metropolitan Airports Commission in acquiring undeveloped property at fair market value impacted by State Safety Zones A and B if applied to Flying Cloud Airport.
2. Support payments in lieu of taxes to recover lost City revenue that would be realized if acquired land were developed for private, commercial uses.

AVIATION GOAL 4	Protect all primary, horizontal, conical approach, transitional and general airspace from vertical intrusions.
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Policies

The City shall:

1. Review development proposals based on meeting FAA and MnDOT Office of Aeronautics airspace criteria.
2. Notify the FAA, MnDOT Office of Aeronautics, and Metropolitan Airports Commission of any development proposals that may involve review of FAA and MnDOT Office of Aeronautics airspace criteria.

AVIATION GOAL 5	Establish and implement a Design Framework Manual for existing and new development at Flying Cloud Airport.
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Policies

The City shall:

1. Support extension of municipal sanitary sewer and water to the airport.
2. Develop guidelines for architectural continuity for new building and hangar construction, including guidelines for signs, lighting, and screening of trash areas.
3. Work to eliminate or replace deteriorating first generation hangar buildings.
4. Support landscaping improvements on airport property to help mitigate noise and visual impacts to neighboring properties.

**CITY OF EDEN PRAIRIE COMPREHENSIVE PLAN UPDATE
CHAPTER 6: AIRPORT ELEMENT**

6.1 INTRODUCTION

Flying Cloud Airport is one of six metropolitan reliever airports owned and operated by the Metropolitan Airports Commission (MAC). It is located in south central Eden Prairie along the Minnesota River bluffs. The MAC acquired the airport in 1947 when it consisted of 134 acres. Today, the airport contains 780 acres, representing 3.45% of the City's total land area.

The airport is classified as a General Utility Airport by the Federal Aviation Administration (FAA) and a Minor airport by the Metropolitan Council. In 2000, the Minnesota Legislature passed a law prohibiting the MAC from expanding any metropolitan system airport from a Minor to an Intermediate classification without legislative approval. A Minor airport is defined as an airport with primary runway not exceeding 5,000 feet in length.

There are two parallel east/west hard-surfaced runways 3,600 feet and 3,900 feet in length, and one north/south hard-surfaced runway 2,700 feet in length. Runways are lighted for night use and use various approach lighting aids. The airport is tower controlled and uses a full instrument approach landing system. MAC reported 234,475 aircraft operations at the airport in 1999 by piston- and turbine-powered aircraft.

Services at the airport consist of aircraft charter, aircraft sales and rental, aircraft maintenance and storage, and flight training programs.

No municipal sanitary sewer or water service is provided to the airport. Individual private septic systems and wells are currently in use.

In 1978, the MAC adopted a weight restriction for the airport known as Ordinance 51. It prohibits all turbojet aircraft operations except those with a 20,000 pound maximum take off weight (MTOW) or less that can meet noise emission levels of Federal Aviation Regulation Part 36. In 1999, the Federal Aviation Administration advised MAC that Ordinance 51 may violate MAC's contractual obligation to provide public access to the airport on reasonable terms and without unjust discrimination.

This Airport Element discusses the City's land use policies relating to the airport, including, in particular, currently proposed airport expansion. The City has entered into an agreement with MAC, described herein, that it believes will mitigate the potential adverse environmental consequences of the expansion and promote land use compatibility.

6.2 LAND USE COMPATIBILITY

The City intends that land uses surrounding the airport be compatible with the airport and vice versa. Airport impacts that would affect land use compatibility include noise and safety.

Land use to the north of the airport, along CSAH 1, is mainly Public Open Space and Low Density Residential, with some Medium Density Residential and Industrial use. To the south is the Minnesota River Valley, which is Public Open Space.

To the east of the airport, most of the land use is Low Density Residential, and Public Open Space, including Homeward Hills Park. The landfill adjacent to TH 212, guided Industrial, is permanently closed and now compatible with the airport.

Land use to the west is generally Low Density Residential, Church, and Public Open Space to accommodate runway approach zones. To the southwest, land use is Office, Medium Density Residential, Low Density Residential, and Public Open Space. The Office use serves as an important land use buffer between the airport and the residential uses.

The MAC proposes to acquire land to the east, west and southwest of the existing airport to accommodate a proposed runway expansion plan and to further land use compatibility. The City has revised the Land Use Guide Plan for 2000-2020 to show this area guided for Airport use:

In addition to the aviation functions and facilities at Flying Cloud Airport, seaplane activities are occurring on Lake Riley and Bryant Lake. To the City's knowledge, all seaplane operations are in conformance with the Minnesota Department of Transportation Rules and Regulations.

6.3 AIRCRAFT NOISE ZONES

The Metropolitan Council's *Land Use Compatibility Guidelines for Aircraft Noise* indicate that a Day-Night Sound Level (DNL) of 65 dBA represents the threshold of significant impact for noise-sensitive land uses. The Metropolitan Council also considers noise-sensitive land uses in the DNL 60-65 dBA contour as potentially incompatible with aircraft noise.

Four aircraft noise exposure zones (NEZ) are defined within the noise exposure map for determining land use compatibility. The noise exposure map is based on MAC's Long-Term Comprehensive Plan approved by the Metropolitan Council in 1996.

- NEZ 1 contains the land within the DNL 75+ dBA noise contour. This zone does not apply to Flying Cloud Airport.
- NEZ 2 contains the land within the DNL 70-75 dBA noise contour. This zone is contained

within airport property.

- NEZ 3 contains the land within the DNL 65-70 dBA noise contour. The noise in this zone can be categorized as significant.
- NEZ 4 contains the land within the DNL 60-65 dBA noise contour. The City finds that noise in this zone also can be considered significant.

Figure 6.1 shows the noise zones for the Flying Cloud airport and how they overlay land uses. Eden Prairie has adopted by reference the Metropolitan Council's *Land Use Compatibility Guidelines for Aircraft Noise* for new development. In addition, the City will notify MAC of any public hearing at which the City will consider amending the Eden Prairie Comprehensive Guide Plan to permit development of residences on any property that is shown in the then-current Comprehensive Guide Plan as being exposed to Airport noise in excess of DNL 60 dBA.

6.4 AIRSPACE AND LAND USE SAFETY ZONES

Formal safety zones for the airport to reflect State standards can be created only by creation of a zoning authority by MAC or a joint, zoning authority of MAC and Eden Prairie. The MAC has not created the zoning authority permitted by state law to control development in these areas. Eden Prairie and MAC have been unable to reach an agreement on a joint zoning authority due to unresolved liability issues.

The MAC and Eden Prairie nevertheless use the safety zones for planning purposes. Figure 6.2 shows the boundaries of the safety zones for the existing airport.

- Safety zone A is a "no build" zone. It is two-thirds the length of the runway and is to be maintained free of structures.
- Safety zone B is a "limited development" zone. It is one-third the length of the runway and the minimum lot size is to be three acres.
- Safety zone C is a "height limitation" zone. It is based on the primary, horizontal, approach, transition, and conical zones as shown in the airport zoning height map.

The MAC and Eden Prairie have taken several steps to ensure the safe operation of the Airport consistent with these state standards. MAC is acquiring the property potentially impacted by safety zones A and B to maintain clear approach corridors to the airport. The City works with FAA and Minnesota Department of Transportation guidelines to protect safety zone C, including all primary, horizontal, conical approach, transitional, and general airspace from vertical

intrusions by reviewing development proposals for consistency with FAA and MnDOT Office of Aeronautics airspace criteria. The City's zoning ordinance contains height limits ranging between 30 and 45 feet, depending on the zoning district. Towers and antennas may be higher. All development proposals are reviewed based on the airport zoning height map, as shown in Figure 6.3. Any height request that may potentially impact the airport height restrictions is submitted to the FAA, MnDOT Office of Aeronautics and MAC for their review.

6.5 PROPOSED EXPANSION OF FLYING CLOUD AIRPORT

The MAC is proposing to expand Flying Cloud Airport by extending the two parallel runways and constructing additional hangar space. Runway 9L/27R would be extended from 3,600 feet to 3,900 feet, and Runway 9R/27L would be extended from 3,900 feet to 5,000 feet. MAC proposes to acquire a total of 280 acres to protect the expanded runway approach safety zone area and to accommodate the additional hangar space. The MAC has already acquired much of this property. MAC predicted in August 2001 that 302,982 aircraft operations would occur in 2010 if the proposed improvements were made. Figure 6.4 shows the proposed expanded airport.

City policy supports only those changes in the airport that would retain the airport's fundamental character. Without mitigation, extending the runways, building new hangars, and abandoning the weight limit for turbojet aircraft would be a fundamental change in the character of the airport.

The City and MAC have executed a Final Agreement Concerning Flying Cloud Airport And MAC Ordinance No. 51 (December 17, 2002). The City finds that the commitments contained in the Final Agreement will mitigate the potential adverse environmental consequences of the expansion and maintain the character of the airport. On this basis, the City withdrew its opposition to the proposed airport expansion.

The mandatory and voluntary restrictions set forth in the Final Agreement include:

1. Mandatory restrictions on nighttime maintenance run-ups, and operation by aircraft weighing more than 60,000 pounds certified maximum gross take off weight.
2. Commitments by MAC not to increase the pavement strength, increase the runway length, or seek a certificate to accommodate commercial passenger service at the airport.
3. Development of a sound insulation program to test, and insulate where appropriate, residences exposed to noise in excess of DNL 60 dBA.
4. Adoption by MAC of a voluntary restraint on nighttime operations and recommendations for reducing the noise of early morning departures.

5. Adoption by MAC of a voluntary restraint on operations by Stage 2 aircraft and a commitment to pursue a ban on all Stage 2 aircraft if operations exceed a specific limit.

6.6 IMPLEMENTATION STRATEGIES

Land Use Compatibility: The City will promote land use compatibility for lands surrounding Flying Cloud Airport by reviewing all proposed development in areas surrounding the airport for consistency with the airport and by periodically reviewing its land use plans and policies. Eden Prairie shall notify MAC of any public hearing at which Eden Prairie will consider amending the Eden Prairie Comprehensive Guide Plan to permit development of residences on any property that is shown in the then-current Comprehensive Guide Plan as being exposed to Airport noise in excess of DNL 60 dBA.

Aircraft Noise: The City supports the Metropolitan Council's *Land Use Compatibility Guidelines for Aircraft Noise* for new development. The City will work toward minimizing the impact of aircraft noise upon noise-sensitive land uses by encouraging and supporting noise abatement programs for the airport. As part of the Final Agreement, MAC will develop a methodology agreed upon by MAC and the City, to determine existing exterior to interior noise reduction level. In the event a residence has an exterior to interior noise attenuation of less than 20dBA, MAC shall provide sound insulation to achieve a noise reduction of at least 20dBA. No residence for which building permits were issued on or after December 4, 2001 shall be eligible to receive testing or sound insulation.

Safety Issues: The City will work within existing FAA and MAC guidelines to protect all primary, horizontal, conical approach, transitional, and general airspace from vertical intrusions by reviewing development proposals based on meeting FAA and MnDOT Office of Aeronautics airspace criteria. The City will notify the FAA, MnDOT Office of Aeronautics and MAC of any development proposals that may involve review of FAA and MnDOT Office of Aeronautics airspace criteria. Any sponsor who proposes any construction or alteration that would exceed a height of 200 feet above ground level at the site, or any construction or alteration of greater height than an imaginary surface extending upward and outward at a slope of 100:1 from the nearest point of the nearest runway of a public airport shall notify the Commissioner of MnDOT Office of Aeronautics.

Municipal Sanitary Sewer and Water Service: It is anticipated that municipal sanitary sewer and water will be extended to the airport in 2003.

Heliports: No heliports exist in the City. It is anticipated that if any heliport planning or construction occurs in the City, it will take place at Flying Cloud Airport.

Design Issues: The City will seek to work with the MAC to establish and implement a Design Framework Manual for new development at Flying Cloud Airport. The Framework would include guidelines for architectural continuity for new building and hangar construction, including guidelines for signs, lighting, and screening of trash areas. The City will support landscaping improvements on airport property to help mitigate noise and visual impacts to

EXHIBIT 5

MAP OF RESIDENCES
SCHEDULED FOR EXTERIOR TO INTERIOR NOISE ATTENUATION TESTIN

Exhibit 5



2010 Alternative F with Mitigation Preferred Alternative

DNL Noise Contours

Eligible Residential Properties

Property subject to Item 6 of MOU

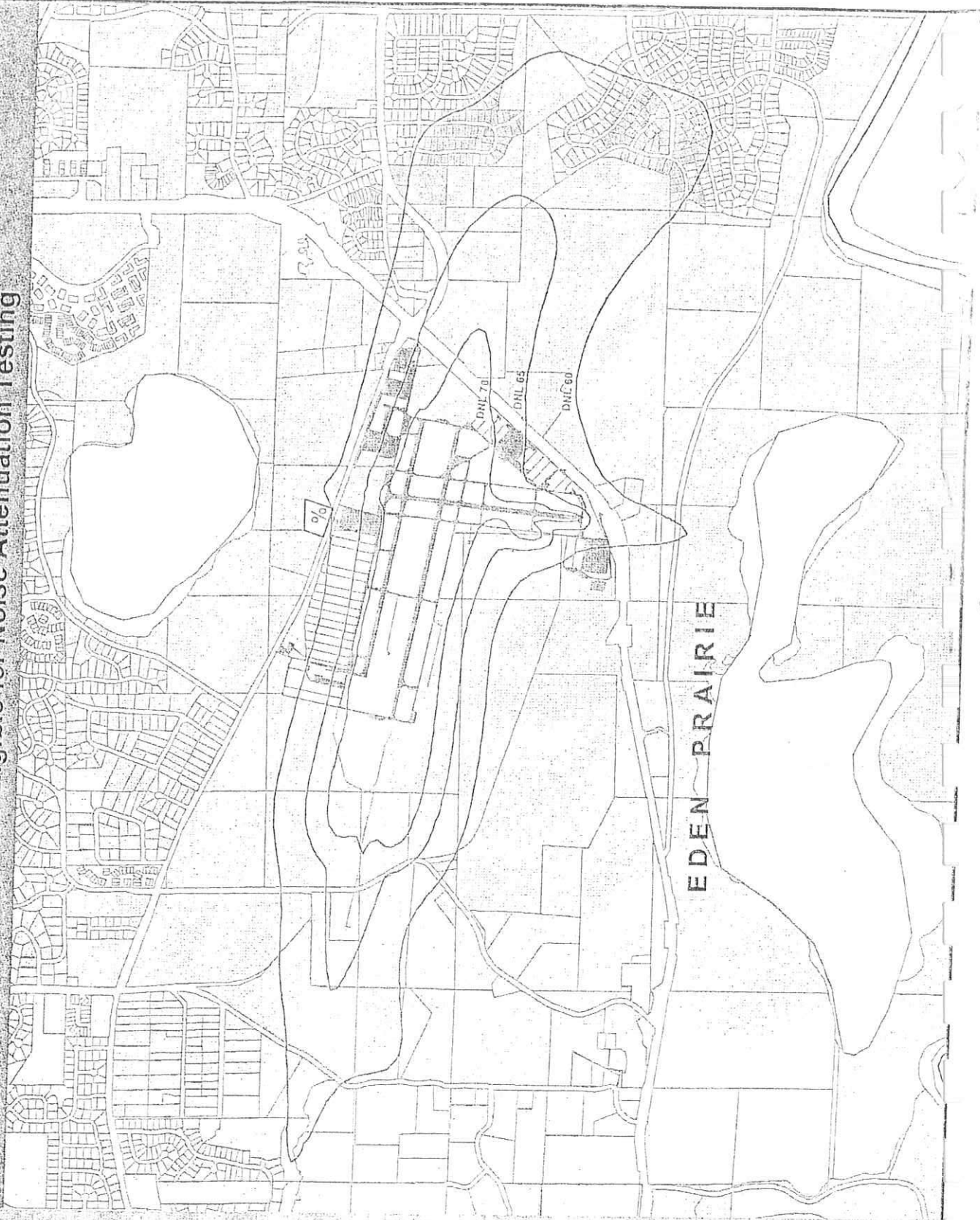
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Eligible Residential Properties

Environmental Impact Statement

Parcels Eligible for Noise Attenuation Testing



EDEN PRAIRIE

Exhibit 5 Address List
Flying Cloud Airport

LINE	HOUSE NUM	STREET	POST CITY	ZIP
1	261162230001	12661 PIONEER TR	EDEN PRAIRIE	55347
2	261162230005	12701 PIONEER TR	EDEN PRAIRIE	55347
3	261162230019	9715 WOODRIDGE DR	EDEN PRAIRIE	55347
4	261162230020	9731 WOODRIDGE DR	EDEN PRAIRIE	55347
5	261162230021	9747 WOODRIDGE DR	EDEN PRAIRIE	55347
6	261162230022	9763 WOODRIDGE DR	EDEN PRAIRIE	55347
7	261162230023	9779 WOODRIDGE DR	EDEN PRAIRIE	55347
8	261162230024	9795 WOODRIDGE DR	EDEN PRAIRIE	55347
9	261162230025	9811 WOODRIDGE DR	EDEN PRAIRIE	55347
10	261162230026	9788 TREE FARM RD	EDEN PRAIRIE	55347
11	261162230027	9772 TREE FARM RD	EDEN PRAIRIE	55347
12	261162230028	9756 TREE FARM RD	EDEN PRAIRIE	55347
13	261162230029	9740 TREE FARM RD	EDEN PRAIRIE	55347
14	261162230030	9724 TREE FARM RD	EDEN PRAIRIE	55347
15	261162230031	9708 TREE FARM RD	EDEN PRAIRIE	55347
16	261162230032	9692 TREE FARM RD	EDEN PRAIRIE	55347
17	261162230033	9676 TREE FARM RD	EDEN PRAIRIE	55347
18	261162230034	9660 TREE FARM RD	EDEN PRAIRIE	55347
19	261162230045	9690 WOODRIDGE DR	EDEN PRAIRIE	55347
20	261162230046	9708 WOODRIDGE DR	EDEN PRAIRIE	55347
21	261162230047	9726 WOODRIDGE DR	EDEN PRAIRIE	55347
22	261162230048	9744 WOODRIDGE DR	EDEN PRAIRIE	55347
23	261162230049	9762 WOODRIDGE DR	EDEN PRAIRIE	55347
24	261162230050	9778 WOODRIDGE DR	EDEN PRAIRIE	55347
25	261162230051	9794 WOODRIDGE DR	EDEN PRAIRIE	55347
26	261162230052	9810 WOODRIDGE DR	EDEN PRAIRIE	55347
27	261162230053	9826 WOODRIDGE DR	EDEN PRAIRIE	55347
28	261162230054	9791 TREE FARM RD	EDEN PRAIRIE	55347
29	261162230055	9775 TREE FARM RD	EDEN PRAIRIE	55347
30	261162230056	9759 TREE FARM RD	EDEN PRAIRIE	55347
31	261162230057	9743 TREE FARM RD	EDEN PRAIRIE	55347
32	261162230058	9727 TREE FARM RD	EDEN PRAIRIE	55347
33	261162230059	9711 TREE FARM RD	EDEN PRAIRIE	55347
34	261162230060	9695 TREE FARM RD	EDEN PRAIRIE	55347
35	261162230061	9679 TREE FARM RD	EDEN PRAIRIE	55347
36	261162230062	9663 TREE FARM RD	EDEN PRAIRIE	55347
37	261162240056	12295 OXBOW DR	EDEN PRAIRIE	55347
38	261162240057	12315 OXBOW DR	EDEN PRAIRIE	55347
39	2611622310011	12175 OXBOW DR	EDEN PRAIRIE	55347
40	2611622310012	12195 OXBOW DR	EDEN PRAIRIE	55347
41	2611622310013	12215 OXBOW DR	EDEN PRAIRIE	55347
42	2611622310014	12235 OXBOW DR	EDEN PRAIRIE	55347
43	2611622310016	12275 OXBOW DR	EDEN PRAIRIE	55347
44	2611622310029	12255 OXBOW DR	EDEN PRAIRIE	55347
45	2611622320002	9827 WOODRIDGE DR	EDEN PRAIRIE	55347
46	2611622320003	9843 WOODRIDGE DR	EDEN PRAIRIE	55347
47	2611622320004	9839 JEDLICKA CT	EDEN PRAIRIE	55347
48	2611622320005	9851 JEDLICKA CT	EDEN PRAIRIE	55347
49	2611622320006	9863 JEDLICKA CT	EDEN PRAIRIE	55347
50	2611622320007	9887 JEDLICKA CT	EDEN PRAIRIE	55347
51	2611622320008	9894 JEDLICKA CT	EDEN PRAIRIE	55347
52	2611622320009	9878 JEDLICKA CT	EDEN PRAIRIE	55347
53	2611622320010	9862 JEDLICKA CT	EDEN PRAIRIE	55347
54	2611622320011	9900 TREE FARM RD	EDEN PRAIRIE	55347
55	2611622320012	9884 TREE FARM RD	EDEN PRAIRIE	55347
56	2611622320013	9868 TREE FARM RD	EDEN PRAIRIE	55347
57	2611622320014	9852 TREE FARM RD	EDEN PRAIRIE	55347
58	2611622320015	9836 TREE FARM RD	EDEN PRAIRIE	55347
59	2611622320016	9820 TREE FARM RD	EDEN PRAIRIE	55347
60	2611622320017	9804 TREE FARM RD	EDEN PRAIRIE	55347
61	2611622320018	9842 WOODRIDGE DR	EDEN PRAIRIE	55347
62	2611622320019	9903 TREE FARM RD	EDEN PRAIRIE	55347
63	2611622320020	9871 TREE FARM RD	EDEN PRAIRIE	55347
64	2611622320021	9823 TREE FARM RD	EDEN PRAIRIE	55347
65	2611622320022	9807 TREE FARM RD	EDEN PRAIRIE	55347
66	2611622330004	12392 CHESHOLM LA	EDEN PRAIRIE	55347
67	2611622330005	12426 CHESHOLM LA	EDEN PRAIRIE	55347
68	2611622330006	12325 CHESHOLM LA	EDEN PRAIRIE	55347
69	2611622330007	12359 CHESHOLM LA	EDEN PRAIRIE	55347
70	2611622330008	12393 CHESHOLM LA	EDEN PRAIRIE	55347
71	2611622330009	10087 KIERSTEN PL	EDEN PRAIRIE	55347
72	2611622330010	12500 ALISE PL	EDEN PRAIRIE	55347
73	2611622330011	12484 ALISE PL	EDEN PRAIRIE	55347
74	2611622330012	12468 ALISE PL	EDEN PRAIRIE	55347
75	2611622330013	12452 ALISE PL	EDEN PRAIRIE	55347
76	2611622330014	12436 ALISE PL	EDEN PRAIRIE	55347
77	2611622330015	12433 ALISE PL	EDEN PRAIRIE	55347
78	2611622330016	12449 ALISE PL	EDEN PRAIRIE	55347

Exhibit 5 Address List
Flying Cloud Airport

NO.	ADD. NO.	MOUSE NUM.	STREET	POST OFF.	ZIP
79	2611622330017	12465	ALISE PL	EDEN PRAIRIE	55347
80	2611622330018	12481	ALISE PL	EDEN PRAIRIE	55347
81	2611622330019	12497	ALISE PL	EDEN PRAIRIE	55347
82	2611622330020	10135	KIERSTEN PL	EDEN PRAIRIE	55347
83	2611622330021	10147	KIERSTEN PL	EDEN PRAIRIE	55347
84	2611622330022	12532	SILVERWOOD DR	EDEN PRAIRIE	55347
85	2611622330023	12498	SILVERWOOD DR	EDEN PRAIRIE	55347
86	2611622330024	12464	SILVERWOOD DR	EDEN PRAIRIE	55347
87	2611622330025	10100	KIERSTEN PL	EDEN PRAIRIE	55347
88	2611622330026	10112	KIERSTEN PL	EDEN PRAIRIE	55347
89	2611622330027	10124	KIERSTEN PL	EDEN PRAIRIE	55347
90	2611622330028	10136	KIERSTEN PL	EDEN PRAIRIE	55347
91	2611622330029	10148	KIERSTEN PL	EDEN PRAIRIE	55347
92	2611622330030	10160	KIERSTEN PL	EDEN PRAIRIE	55347
93	2611622330031	10172	KIERSTEN PL	EDEN PRAIRIE	55347
94	2611622340035	12155	CHESHOLM LA	EDEN PRAIRIE	55347
95	2611622340039	10398	GREYFIELD CT	EDEN PRAIRIE	55347
96	2611622340040	10395	GREYFIELD CT	EDEN PRAIRIE	55347
97	2611622340044	12222	CHESHOLM LA	EDEN PRAIRIE	55347
98	2611622340045	12256	CHESHOLM LA	EDEN PRAIRIE	55347
99	2611622340046	12290	CHESHOLM LA	EDEN PRAIRIE	55347
100	2611622340048	12358	CHESHOLM LA	EDEN PRAIRIE	55347
101	2611622340049	12189	CHESHOLM LA	EDEN PRAIRIE	55347
102	2611622340050	12223	CHESHOLM LA	EDEN PRAIRIE	55347
103	2611622340051	12257	CHESHOLM LA	EDEN PRAIRIE	55347
104	2611622340053	12420	ALISE PL	EDEN PRAIRIE	55347
105	2611622340054	12417	ALISE PL	EDEN PRAIRIE	55347
106	2711622120004	13390	PIONEER TR	EDEN PRAIRIE	55347
107	2711622130001	13420	PIONEER TR	EDEN PRAIRIE	55347
108	2711622130002	13380	PIONEER TR	EDEN PRAIRIE	55347
109	2711622140006	12880	PIONEER TR	EDEN PRAIRIE	55347
110	2711622140010	13090	PIONEER TR	EDEN PRAIRIE	55347
111 & 112	2711622140033	12829	PIONEER TR	EDEN PRAIRIE	55347
113 & 114	2711622140034	12813	PIONEER TR	EDEN PRAIRIE	55347
115	3511622210070	10390	GREYFIELD CT	EDEN PRAIRIE	55347
116	3511622210089	10247	MOOER LA	EDEN PRAIRIE	55347
117	3511622210090	10233	MOOER LA	EDEN PRAIRIE	55347
118	3511622210091	10219	MOOER LA	EDEN PRAIRIE	55347
119	3511622210092	10205	MOOER LA	EDEN PRAIRIE	55347
120	3511622210093	10228	MOOER LA	EDEN PRAIRIE	55347
121	3511622210094	10242	MOOER LA	EDEN PRAIRIE	55347
122	3511622210095	10256	MOOER LA	EDEN PRAIRIE	55347
123	3511622210118	10394	MOOER LA	EDEN PRAIRIE	55347
124	3511622220002	10200	GREYFIELD CT	EDEN PRAIRIE	55347
125	3511622220003	10214	MOOER LA	EDEN PRAIRIE	55347
126	3511622220004	10283	MOOER LA	EDEN PRAIRIE	55347
127	3511622220005	10279	WINTER PL	EDEN PRAIRIE	55347
128	3511622220006	10275	WINTER PL	EDEN PRAIRIE	55347
129	3511622220007	10271	WINTER PL	EDEN PRAIRIE	55347
130	3511622220008	10268	WINTER PL	EDEN PRAIRIE	55347
131	3511622220009	10272	WINTER PL	EDEN PRAIRIE	55347
132	3511622220010	10276	WINTER PL	EDEN PRAIRIE	55347
133	3511622220011	10284	WINTER PL	EDEN PRAIRIE	55347
134	3511622220012	10286	WINTER PL	EDEN PRAIRIE	55347
135	3511622220019	12528	WINTER PL	EDEN PRAIRIE	55347
136	3511622220020	12546	SANDY POINT RD	EDEN PRAIRIE	55347
137	3511622220021	12564	SANDY POINT RD	EDEN PRAIRIE	55347
138	3511622220022	12582	SANDY POINT RD	EDEN PRAIRIE	55347
139	3511622220023	12600	SANDY POINT RD	EDEN PRAIRIE	55347
140	3511622220024	12618	SANDY POINT RD	EDEN PRAIRIE	55347
141	3511622220025	12636	SANDY POINT RD	EDEN PRAIRIE	55347
142	3511622220026	12654	SANDY POINT RD	EDEN PRAIRIE	55347
143	3511622220112	10184	SANDY POINT RD	EDEN PRAIRIE	55347
144	3511622220113	10196	KIERSTEN PL	EDEN PRAIRIE	55347
145	3511622220114	10208	KIERSTEN PL	EDEN PRAIRIE	55347
146	3511622220115	10220	KIERSTEN PL	EDEN PRAIRIE	55347
147	3511622220116	10232	KIERSTEN PL	EDEN PRAIRIE	55347
148	3511622220118	10225	KIERSTEN PL	EDEN PRAIRIE	55347
149	3511622220119	10213	KIERSTEN PL	EDEN PRAIRIE	55347
150	3511622220120	10201	KIERSTEN PL	EDEN PRAIRIE	55347
151	3511622220123	10177	KIERSTEN PL	EDEN PRAIRIE	55347
152	3511622220124	12535	KIERSTEN PL	EDEN PRAIRIE	55347
153	3511622220125	12501	SILVERWOOD DR	EDEN PRAIRIE	55347
154	3511622220128	12467	SILVERWOOD DR	EDEN PRAIRIE	55347
155	3511622220127	12433	SILVERWOOD DR	EDEN PRAIRIE	55347
156	2611622330035	10075	SILVERWOOD DR	EDEN PRAIRIE	55347
157	2611622330040	12494	KIERSTEN PLACE	EDEN PRAIRIE	55347
			CHESHOLM LANE	EDEN PRAIRIE	55347

MEMORANDUM OF UNDERSTANDING
CONCERNING COOPERATIVE SOLUTIONS TO
INFRASTRUCTURE, RIGHT-OF-WAY/EASEMENT AND PARK NEEDS
BETWEEN THE CITY OF EDEN PRAIRIE AND THE METROPOLITAN AIRPORTS
COMMISSION REGARDING FLYING CLOUD AIRPORT

This Memorandum of Understanding ("MOU") is entered into between the City of Eden Prairie ("Eden Prairie" or "City") and the Metropolitan Airports Commission ("MAC") regarding cooperative solutions to outstanding infrastructure, assessment, right-of-way/easement and parkland issues relating to the Flying Cloud Airport. The undersigned parties believe that the elements of this MOU will establish a cooperative relationship between Eden Prairie and MAC for the compatible implementation of infrastructure improvements and private property development. In exchange for all the commitments in this MOU the parties agree as follows:

I. Easements for Charlson Area Improvements.

A. MAC RESPONSIBILITIES AND COMMITMENTS:

- (1) MAC shall convey right-of-way and/or easements (subject to FAA approval) in general conformance to the drawing attached as Exhibit A.
 - (a) The areas in *yellow* (approximately 4 acres) shall be conveyed to Eden Prairie at no additional consideration or compensation. The undersigned recognize that this right-of-way was the subject of an agreement dated November 10, 1997 between Grace Church and Lynn L. Charlson (and successors and assigns), wherein the property owner covenanted to dedicate right-of-way for the realignment of County Road 4 at no monetary compensation.
 - (b) The area generally highlighted in *purple* minus the area highlighted in *red* (that will be vacated), approximately 4.1 acres net, shall be conveyed to Eden Prairie.
 - (c) MAC shall provide temporary construction easements for construction of the improvements as shown on Exhibit A at no additional compensation. The parties acknowledge that not all of the easement areas have been "final designed" but recognize that they are temporary in nature and will vary in accordance with construction needs. Conveyance of easements is subject to final design approval by MAC.

B. EDEN PRAIRIE RESPONSIBILITIES AND COMMITMENTS

- (1) Eden Prairie shall reimburse MAC in accordance with the following:
 - (a) Pending special assessments for parcels labeled MAC 2 and MAC 3 (see Exhibit A) will not be levied by City. The estimated amount of these special assessments is \$332,304. Trunk assessments against these two parcels will be absorbed by the City and pending local assessments from the Charlson Area Feasibility Study will be reassigned to non-MAC property as right-of-way acquisition costs.

- (b) Except for provisions to collect trunk sewer and water assessments for current and proposed buildings on the airport property (see Paragraph 6) and in consideration and approval of all the elements of this MOU, Eden Prairie will not levy any additional trunk sewer and water assessments to MAC-owned land as assembled for development and protection of the Flying Cloud Airport.
- (c) City will grant MAC a "curb cut" on Charlson Road in a manner to permit access from the Southwest corner of the south hangar area to Charlson Road in a location to be mutually agreed upon between MAC and the City.

C. GENERAL

- (1) The final design details of the CSAH 4 (Eden Prairie Road/Spring Road) alignment are subject to approval by Hennepin County and MAC. It is expected that the area of *purple* may be enlarged or reduced and that a corresponding enlargement or reduction in the area shown in *red* to be vacated may occur, but that the net acreage is expected to remain at approximately 4.1 acres.
- (2) Grading of the Charlson property and construction of Charlson Road including utility stub locations shall be subject to MAC approval and will be granted if the grading plans are designed to be compatible with the MAC grading plans so as not to compromise the integrity of MAC's present and known future development plans, except as provided for in that certain Settlement Agreement dated July 16, 2002 between MAC, Lynn Charlson, Pentom and the City of Eden Prairie ("Settlement Agreement").

2. TH 212 and Pioneer Trail Utilities.

A. MAC RESPONSIBILITIES AND COMMITMENTS

- (1) MAC shall loop the watermain through airport property from the South Hangar area to Pioneer Trail to meet fire flow/safety requirements (established by the Fire Marshall as 2000 gallons per minute to office/industrial areas and 3000 gallons per minute to hangar areas). MAC will dedicate necessary easements for ownership, maintenance and repairs by the City.

B. EDEN PRAIRIE RESPONSIBILITIES AND COMMITMENTS

- (1) City shall construct and finance from its Trunk Utility Fund the 16-inch watermain connection under Pioneer Trail and TH 212.
- (2) Eden Prairie shall reimburse MAC for expenses MAC incurs in extending watermain along TH 212/Flying Cloud Drive from the point that the waterline is necessary to serve the building area in the vicinity of the control tower to the westerly MAC property line (estimated to be approximately 300 to 500 feet).

- (3) The Feasibility Study shall indicate the cost of an 8-inch watermain along Flying Cloud Drive to be assessed to adjacent properties with the City paying the cost to oversize to a 12-inch watermain.
- (4) Upon execution Eden Prairie shall finalize the Pioneer Trail/Flying Cloud Drive Area Feasibility Study, conduct the public hearing and let the contract for the portion to be constructed by Eden Prairie.

C. GENERAL

- (1) Each party shall be responsible for one half of the full cost to install an 8-inch watermain along Pioneer Trail (from Staring Lake Parkway to TH212), with Eden Prairie reimbursing MAC for the cost to oversize the watermain from an 8-inch to 12-inch diameter trunk line.
- (2) MAC and Eden Prairie shall cooperate in the construction of the utilities as follows:
 - (a) Eden Prairie shall hold public hearings and be responsible for managing the public process in accordance with Minnesota Statutes Chapter 429 regarding special assessment procedures.
 - (b) Eden Prairie shall design, let and administer the phase of the construction project generally north of Pioneer Trail and including the crossing of Pioneer Trail of the proposed sanitary sewer and all of the 16-inch watermain.
 - (c) MAC shall design, let and administer all remaining portions of the project for which Eden Prairie will reimburse MAC for costs beyond MAC's share of the project as defined in the Feasibility Study.
 - (d) MAC shall follow all applicable public procurement and bidding requirements to meet the requirements of special assessment statutes, i.e., public bids, advertising, plan approval, change order approvals and documentation.
 - (e) Upon completion of the MAC portion of the utilities, the City shall become owner of the trunk sanitary sewers and trunk watermains installed along Pioneer Trail and Flying Cloud Drive, including the airport loop watermain identified in Paragraph 2 A(1) above. MAC will dedicate necessary easements for maintenance and repairs by the City at City's sole cost.
 - (f) Eden Prairie will assemble the final costs as incurred by MAC and Eden Prairie and develop the final allocation of costs in accordance with the Feasibility Study and levy applicable special assessments.

3. **SAC/WAC Fees.** Eden Prairie will charge non-commercial tenants (storage facilities) at the prevailing City Residential SAC/WAC rate at time of plumbing permit issuance. MCES SAC, water meters and inspection fees will also be collected at time of permit issuance at prevailing rates. Buildings utilized for commercial uses would pay at prevailing commercial SAC/WAC rates.

4. **Airport Drainage and Water Quality Facilities.** In accordance with the Settlement Agreement, the City will pursue design of the "North Pond" to be a dry pond facility subject to approval of applicable regulatory agencies. However, if the resultant facility is a pond containing a permanent water pool, the design will be developed in accordance with FAA Advisory Circular 150/500-33 (5-1-97) Section C 3-7. The parties acknowledge that the City does not have (nor contemplates) any special maintenance provisions that would limit waterfowl utilization of the pond. The Settlement Agreement contemplated that the North Pond will be a joint use facility and will be maintained by the City of Eden Prairie at no cost to MAC, with no special waterfowl maintenance requirement. Upon application to City, MAC shall be granted such permits as are reasonably necessary for MAC to perform waterfowl maintenance and control.

5. **Future Right-of-Way for CSAH 1.** Subject to the conditions set forth in the second sentence of this paragraph MAC shall cooperate with Hennepin County at a future date to provide right-of-way at no monetary compensation for the anticipated expansion of CSAH 1 (Pioneer Trail) provided that the improvements do not compromise the use of the property by MAC or its tenants as determined by MAC. The conditions to MAC's cooperation are that there will be (i) no out of pocket cost or assessments to MAC, (ii) accommodation of MAC storm water, (iii) no net loss in parking spaces, (iv) fencing that may be required for relocation will be removed and replaced to provide continuous and ongoing security for the airport facility, (v) complete restoration of the airport grounds to be equal or better than existing, and (vi) final design approval by MAC. Further the parties agree that if an opportunity for a three-party cooperative agreement between MAC, Eden Prairie and Hennepin County exists for acquiring a parcel generally known as the "Sjostrand Property" as a solution for right-of-way needs in conjunction with the CSAH 1 improvements, that a mutually acceptable acquisition be pursued.

6. **Trunk Assessments.** Eden Prairie shall collect trunk sewer and water assessments for existing airport property (in the hangar and building area) based on the following:
 - A. Assessments would be collected on a "fee basis" at the same time as SAC/WAC fees at time of issuance of plumbing permits.
 - B. The amount of the assessment shall be based on dividing the gross square footage of the building by 20% and multiplying by the prevailing acreage trunk assessment rate as established on an annual basis by Eden Prairie City Council on a community-wide basis.
 - C. All existing and proposed future buildings on the airport that will utilize sewer and water service in the future will be connected to the municipal utility system on a reasonable time schedule as established by MAC Policy for Sanitary Sewer and Water Installation at the Reliever Airports, amended as of October 16, 2000, and are subject to these fees.

7. **Hustad Property/Atkins Property/Special Assessments.**
 - A. **MAC RESPONSIBILITIES AND COMMITMENTS**
 - (1) Subject to FAA approval for compliance with land release and revenue diversion, MAC shall provide a permanent license in favor of Eden Prairie for park and open space purposes over land acquired by MAC from "Hustad" (approximately 32 acres) and "Atkins" (approximately 10 acres). MAC shall seek such approval from the FAA immediately after receiving from Eden Prairie the utilization plan identified below in 7.B.(2).

B. EDEN PRAIRIE RESPONSIBILITIES AND COMMITMENTS

- (1) Subject to receipt of FAA approval as provided for in 7.A.(1) above, Eden Prairie will not levy pending assessments estimated at \$1,140,685 as proposed by the Charlson Area Feasibility Study against property acquired by MAC generally known as the "Hustad Property", which was the subject of a certain special assessment agreement filed as Document Number 6777956 (filed in Abstract) and Document Number 2839728 (filed in Torrens). Eden Prairie shall not reassign or assess these costs to any other MAC or non-MAC property.
- (2) Eden Prairie shall prepare a utilization plan of the park and open space area for review and approval by MAC for conformance to FAA and State Zone A and B requirements. It is understood that Eden Prairie desires to create a neighborhood park and parking lot on a portion of this site. Eden Prairie's use of the property for park and open space use shall be subject to restrictive covenants prohibiting uses other than in the approved utilization plan, which restrictive covenants shall be specifically enforceable by MAC and shall be filed against the property.
- (3) The permanent pond shown along the east side of Eden Prairie Road as generally depicted on Exhibit A (labeled Pond 2) will be relocated to the west side of Eden Prairie Road onto the park and open space property. The City will pursue design of the pond to be a dry pond facility subject to approval of applicable regulatory agencies. However, if the resultant facility is a pond containing a permanent water pool, the design will be developed in accordance with FAA Advisory Circular 150/500-33 (5-1-97) Section C 3-7. The parties acknowledge that the City does not have (nor contemplates) any special maintenance provisions that would limit waterfowl utilization of the pond. The pond will be maintained by the City of Eden Prairie at no cost to the MAC, with no special waterfowl maintenance requirement. Upon application to City, MAC shall be granted such permits as are reasonably necessary for MAC to perform waterfowl maintenance and/or control.
- (4) All existing and future MAC land utilized by Eden Prairie for park and open space purposes will not be subject to cash park fees or storm water utility fee billings to MAC.

8. **Storm Water Utility Fees.** For purposes of computation of storm water utility fees 50.32 acres of property at Flying Cloud Airport shall be included (of which 44.32 acres are "undeveloped" and 6 acres are "developed"). The current quarterly fee for the Airport at its current level of development is \$114.28. Eden Prairie shall apply the rates to the applicable acreage retroactively to the date of origination of the fee structure without penalty or interest and upon payment by MAC of the corrected amount, Eden Prairie shall direct that County Tax Records be expunged of the delinquencies currently listed. Future fees will vary as modified by City Council from time to time so long as such fees are modified on a community-wide basis or as additional Airport Property is developed except as noted in Paragraph 7. B.(4) above.
9. **City Outside Storage Facility.** Eden Prairie shall provide MAC preliminary development plans for the City-owned outside storage facility along the east side of TH 212 (old theatre site) prior to implementation of improvements for advice and counsel regarding minimization of adverse impacts to airport operations prior to submission to FAA for its Airspace (Form 7460) review.

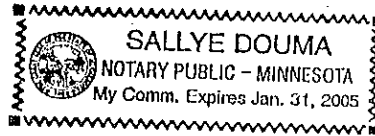
10. **Flying Cloud Ball Field Expansion.** Eden Prairie desires to expand its utilization of MAC-owned property westerly from the existing Flying Cloud Ball Field area to existing Spring Road. This would increase the acreage currently being utilized for Flying Cloud Ball Fields from approximately 31 acres to approximately 56 acres. The parties agree as follows:
- A. The existing Flying Cloud Ball Field Open Space and Park Area shall be converted from a year-to-year lease to a 3 year renewable lease with mutually agreeable language designed to provide a long term utilization of the MAC property for compatible recreational purposes, provided the property shall be subject to recapture by MAC upon one (1) year written notice to City with no monetary compensation to City.
 - B. The 25-acre ± expansion area to be provided to Eden Prairie for recreational purposes shall be incorporated in the lease arrangement as noted in a) above.
 - C. It is understood that Eden Prairie will use the expansion area solely for soccer and ball fields and associated ancillary uses.
 - D. Final design by Eden Prairie for the expansion area shall be subject to review and approval by MAC for conformance with FAA and state rules and regulations and compatibility with airport operational requirements.
 - E. The cost to the City of Eden Prairie to lease these properties shall be subject to negotiation, but shall be: (i) in the same order of magnitude as the current lease payments so long as the federal revenue diversion policy remains the same and (ii) consistent with any change made in the future to federal revenue diversion policy.
11. **Right-of-Entry.** The parties agree that upon execution of this MOU, MAC shall execute a right-of-entry document, which will allow Eden Prairie to construct the improvements identified generally in the Charlson Area Feasibility Study in the location of easements contemplated in Paragraph 1 of this MOU.
12. **Agreements.** The parties agree to enter into such further agreements necessary to carry out the intent of this MOU
13. **Dispute Resolution.**
- A. **Notice of Default.** At no time shall Eden Prairie or MAC be deemed to be in default under, or breach of, this MOU unless and until the other party has provided written notice to the other specifying such alleged breach or default ("Notice of Default") and such alleged breach or default has not been cured as provided in Paragraph 13.B.
 - B. **Right to Cure Default.** The party who has received a Notice of Default shall have thirty (30) days in which to cure the alleged breach or default and provide notice to the other party that such alleged breach or default has been cured.
 - C. **Informal Dispute Resolution.** Immediately after receipt of a Notice of Default, the Executive Director of MAC and the City Manager of Eden Prairie shall meet and attempt to resolve the matter.

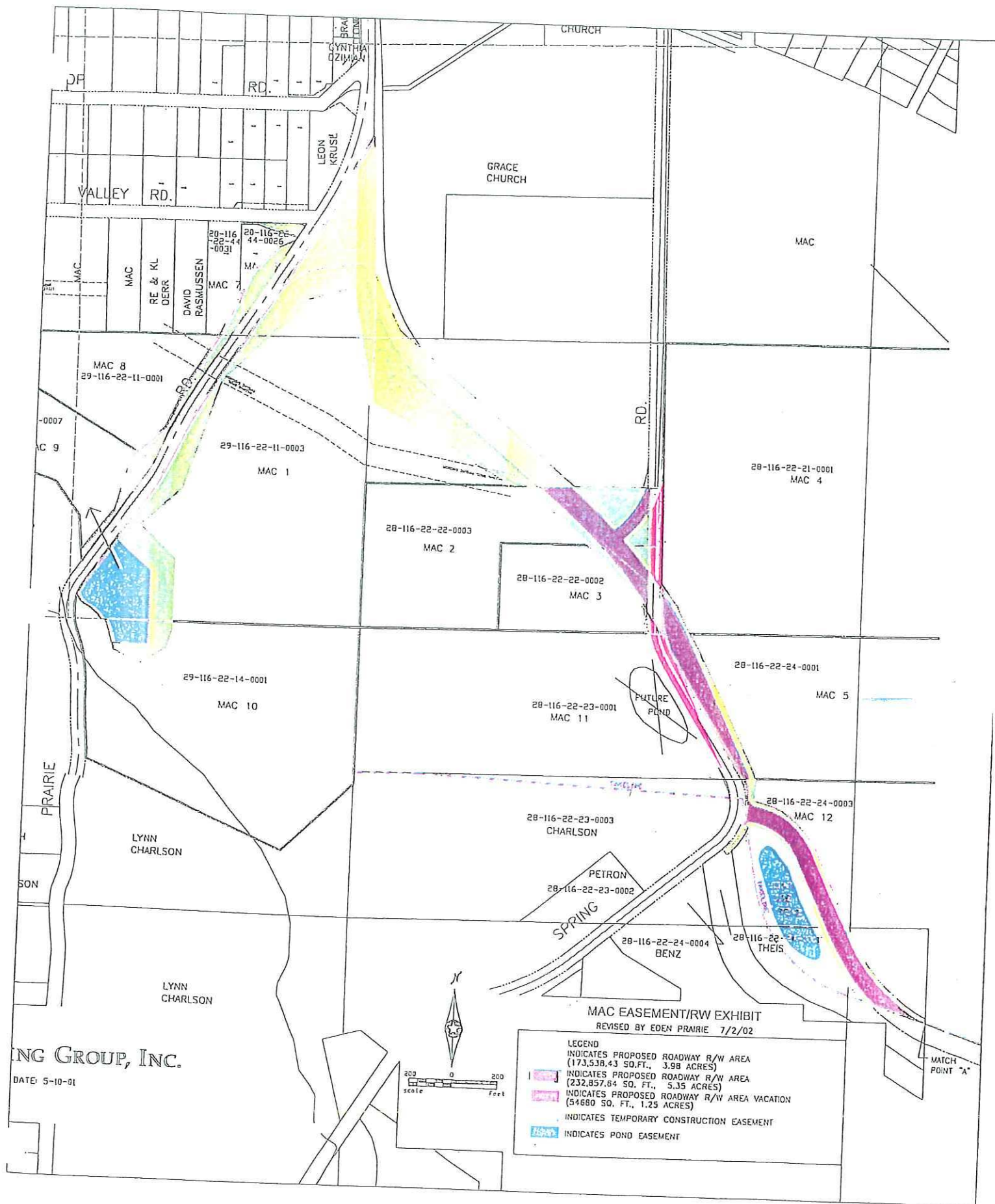
- D. **Formal Mediation.** If the parties fail to resolve the matter informally under Paragraph 13.C within thirty (30) days, the parties shall submit their dispute to a mediator. The parties shall have ten (10) days to select a mediator. If the parties are unable to agree upon a mediator, the Chief Judge of the 4th Judicial District, Hennepin County, Minnesota, shall select a mediator. The mediator shall be provided a copy of the report(s) specified in Paragraph 13.C. The mediation shall be conducted pursuant to the rules generally used by the mediator in the mediator's practice, provided that the entire mediation process be concluded within 30 days of appointment of the mediator, or within such other time as the parties may agree in writing. If the mediation process fails to resolve the matter, both informal and formal dispute resolution shall be deemed to be complete.
- E. **Costs of Alternative Dispute Resolution.** Each party shall bear its own costs of the informal dispute resolution process and formal mediation process described above. The parties shall share equally the fees and expenses of the mediator.
- F. **Dispute Resolution Process Mandatory.** No action shall be commenced in any court to enforce or otherwise apply, interpret, or seek cure for a breach of, this Agreement, excluding an action requesting preliminary or temporary relief, before the completion of the informal and formal dispute resolution process set forth in this Paragraph 13. Neither party shall assert, plead, raise, allege, or rely upon the applicable statute of limitations, laches, timeliness, delay, or any other defense based on the passage of time during the dispute resolution process in any subsequent judicial or administrative proceeding. The dispute resolution provisions set forth in this Paragraph 13 shall apply only to MAC and Eden Prairie, and shall not apply to any successor in interest to either Party.
- G. **Confidentiality.** The alternative dispute resolution process described in this Paragraph 13 constitutes compromise negotiation for purposes of applicable rules of evidence. Information prepared for or disclosed during the alternative dispute resolution process shall be inadmissible in evidence pursuant to Rule 408 of the Federal Rules of Evidence or Rule 408 of the Minnesota Rules of Evidence, and shall be withheld from disclosure to the maximum extent permissible under the Minnesota Data Practices Act and other applicable laws.
- H. **Waiver of Rights.** The failure of either party to object to, or to take affirmative action with respect to, any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of such violation or breach, or of any future violation, breach or wrongful conduct. Subsequent acceptance of performance under this Agreement by Eden Prairie or MAC shall not be deemed to be a waiver of any preceding breach by the other Party of the terms of this Agreement, regardless of Eden Prairie's or MAC's knowledge of such preceding breach at the time of acceptance of performance. No waiver or relinquishment of a right or power under this Agreement shall be deemed a waiver of such right or power at any other time, nor shall any failure of either party to require or exact full and complete compliance with any of the covenants or conditions of this Agreement be construed as changing in any manner the terms hereof or preventing either party from enforcing the full provisions hereof.

The foregoing instrument was acknowledged before me this 7 day of December 2002, by Jeff Hamiel, Executive Director, on behalf of the Metropolitan Airports Commission, a public corporation of the state of Minnesota.



Notary Public





ING GROUP, INC.

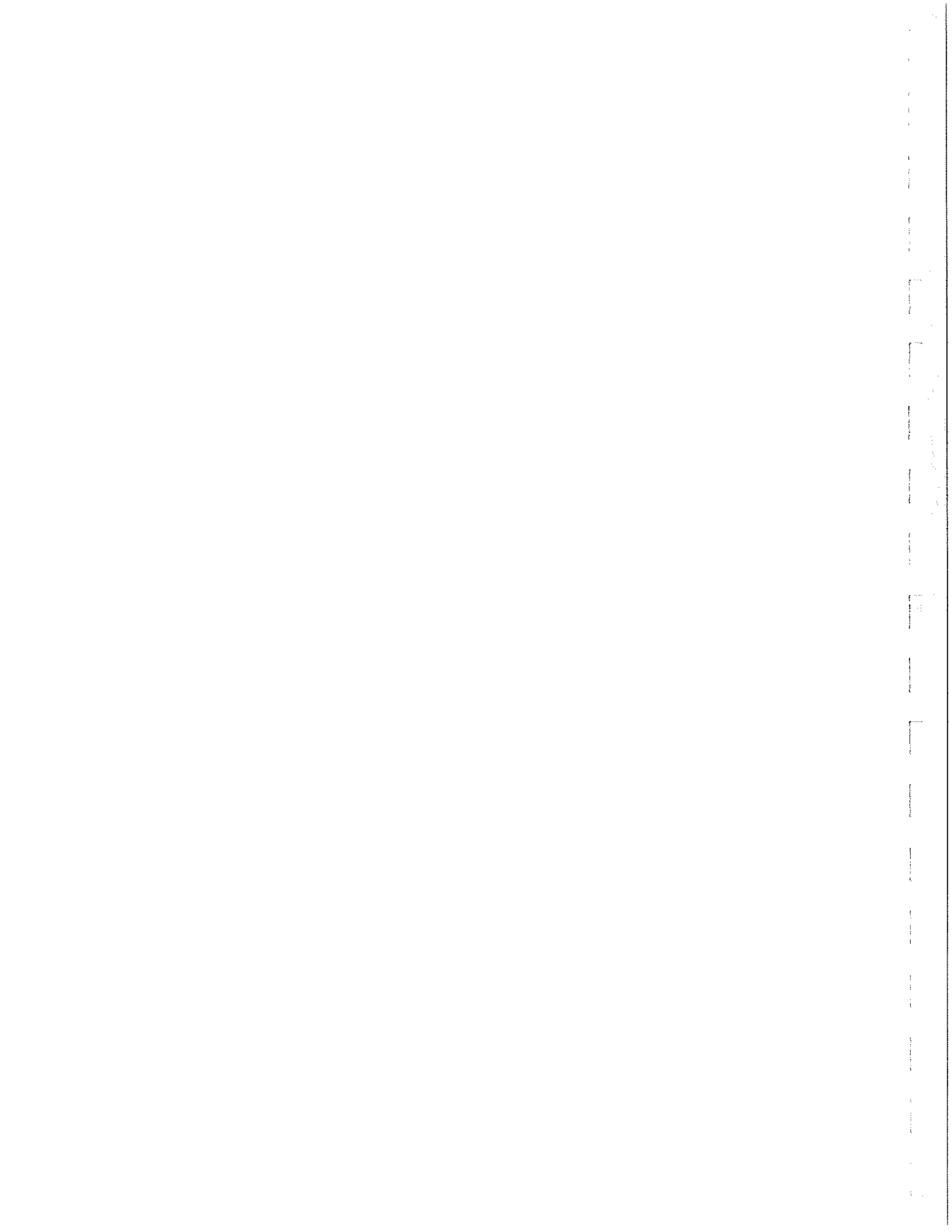
DATE 5-10-01

EXHIBIT A

12/19/02

ATTACHMENT D

FINAL GENERAL CONFORMITY DETERMINATION





**Department of Transportation
Federal Aviation Administration**

**FINAL
GENERAL CONFORMITY DETERMINATION**

Proposed Expansion of Flying Cloud Airport

Eden Prairie, Minnesota

Federal Aviation Administration
Final General Conformity Determination
Proposed Expansion of Flying Cloud Airport
Eden Prairie, Minnesota

In accordance with Section 176(c) of the Clean Air Act Amendments (CAAA) of 1990 and the state of Minnesota general conformity rules presented in its State Implementation Plan (SIP) in accordance with 40 CFR Part 51, Subpart W, the Federal Aviation Administration (FAA) has assessed whether the emissions that would result from the FAA's action of approving the construction and operation of the proposed expansion of Flying Cloud Airport (FCM) is in conformity with the State Implementation Plan (SIP) for the Minneapolis-St. Paul carbon monoxide (CO) and sulfur dioxide (SO₂) attainment/maintenance areas. In making the general conformity determination, FAA based its comparison of emissions on a future airfield configuration with the proposed expansion of runways and building areas (Proposed Action) versus a future airfield configuration with the existing runways and building areas (No Action).

Predicted SO₂ emissions associated with the Proposed Action would not exceed the EPA-specified annual SO₂ emissions threshold in the year 2010 and the Proposed Action would not be a *regionally significant action* because its annual SO₂ emissions would be less than 10% of the SO₂ emissions inventory in the Minnesota SIP. Therefore, a general conformity determination for SO₂ emissions is not required.

Predicted CO on-airport emissions associated with the Proposed Action would exceed the EPA-specified annual CO emissions threshold in the year 2010. FAA is therefore assessing the general conformity of the Proposed Action with the Minnesota SIP for CO emissions.

Proposed Action

The Proposed Action is to approve, for construction and use, Alternative F with the noise mitigation plan described in Section V.Q.3 of the FEIS and Section V of this ROD, and the responsibilities and commitments in the MOU and Final Agreement between the MAC and the city of Eden Prairie in Appendix A.4 of the FEIS and Attachment C of this ROD. Alternative F is the development of a new south building area on the airport to accommodate the existing and future demand for additional hangars, and the increase of lengths of the existing parallel runways 9R/27L and 9L/27R. Runway 9R/27L is currently 3,900 feet in length and Runway 9L/27R is 3,600 feet in length. The east end of Runway 9R/27L would be shifted 120 feet to the west and 1,220 feet would then be added for a total runway length of 5,000 feet. The 120 feet of existing pavement at the east end of the runway would be removed in order to provide an object-free area 600 feet in length off the east end of the runway. FAA standards for a 5,000-foot runway and Category B-II aircraft require an area with this length to

be free of objects that pose a safety problem for landing and departing aircraft. TH 212 and its fence would intrude about 120 feet into this area if the runway were not shifted to the west.

Runway 9L/27R would be extended 300 feet to the west to a final length of 3,900 feet. No extension of the existing crosswind Runway 18/36 is proposed.

Alternative F includes the acquisition of approximately 92 acres of land and 12 acres of avigation easements for approach protection in the expanded Mn/DOT Safety Zone B for Runway 9R west of the airport and Runway 27R east of the airport. Acquisition of the land is in process in order to prevent incompatible residential development. Alternative F is shown in **Figure 2** of this ROD (which is corrected Figure 3 in Appendix D of the FEIS).

Air Quality Status of Metropolitan Area

FCM is located within the currently designated CO and SO₂ maintenance areas, which cover most of the Seven-County Metropolitan Area (Area). FCM lies outside of the currently designated PM-10 non-attainment area in the Area. For a proposed action in a maintenance area for CO and SO₂, the Minnesota SIP sets a threshold rate of 100 tons per year for CO and SO₂ emissions. The 2010 SO₂ emissions inventory determined that the Proposed Action would be *de minimis* for SO₂ emissions, as presented in Section V.A.4 of the SDEIS. The SIP also identifies a proposed action in a maintenance area as a *regionally significant action* if the annual direct and indirect emissions of a pollutant are 10% or more of the maintenance area's emission inventory for that pollutant. As presented in Section V.A.4 of the SDEIS and FEIS, the Proposed Action's 2010 SO₂ emissions would be less than 10% of the SO₂ emissions inventory in the Minnesota SIP and the Proposed Action is therefore not a *regionally significant action* for SO₂ emissions.

Proposed Action Non-Construction CO Emissions Inventory

An inventory of all airport-related emissions was prepared for this general conformity determination. The emissions inventory includes the total annual tons of a regulated pollutant in a designated maintenance area that would be emitted from the various sources operating at, and related to, FCM. The emissions of stationary and mobile sources were calculated using the FAA-required and EPA-approved Emissions and Dispersion Modeling System (EDMS), Version 3.11 and MOBILE 5a. The emissions inventory for CO is presented in **Table D-1**. The predicted conditions in 2010 for the Proposed Action and No Action were considered in this general conformity evaluation. The proposed noise mitigation includes the preferential use of Runway 9R-27L for operations of all aircraft. In making a general conformity determination, the emission comparison is based on the difference between the Proposed Action condition and the No Action condition; therefore, FAA does not include the emissions from the existing condition in the comparison.

**Table D-1 2010 CO Emissions Inventory
(tons per year)**

Source	No Action	Proposed Action
Aircraft	1,288	1,572
Ground Service Equipment/APUs	2	5
On-Airport Roadways	2	3
Parking Lots	7	11
Total CO Emissions	1,299	1,591
Change in Total CO Emissions Compared to No Action		292

Sources: EDMS; MOBILE 5a; HNTB; Metropolitan Council; David Braslau Assoc.

As shown in **Table D-1**, the Proposed Action's CO emissions would exceed the 100 tons per year CO emissions threshold of the CAAA and further analysis of CO emissions is therefore required to determine conformity with the SIP. The Minnesota SIP general conformity rules are presented in 40 CFR Part 51, Subpart W. Paragraph 51.858 of Subpart W states that the project conforms to the SIP -- if an areawide or local air quality modeling analysis shows that the project would not cause or contribute to any new violation of a CO standard, or increase the frequency or severity of any existing violation of a CO standard.

A local air quality modeling analysis was conducted using the EDMS model to determine the local effects of the Proposed Action on ambient CO concentration levels at areas of public access on the airport and at intersections in the vicinity of FCM. The following weather parameters were used in the EDMS screening method to obtain worst case concentrations:

- Stability Class: (5)E (this is very stable air and typically provides worst case concentrations)
- Wind speed: 1 meter per second
- Wind direction: Every 10 degrees from 0 to 350.
- Temperature: 20 degrees and 40 degrees F

Based on an EDMS analysis, the highest concentrations of CO on the airport would be at Receptors A4 and A5, shown in Figure A-2 in Appendix D of the FEIS. The critical intersections are on Pioneer Trail (Hennepin County State Aid Highway 1) at Mitchell Road and TH 212. The analysis for the intersections assumed that the peak hour for on-airport sources occurred at the same peak hour as the roadway traffic and under the same meteorological conditions. Actually, these peak hours occur at different hours of the day with different meteorological conditions. The peak hour of FCM aircraft operations is in the morning (AM) and Pioneer Trail traffic is in the afternoon (PM) with different temperature and wind conditions. Therefore, the analysis assumes a worst-case condition. The forecast traffic volumes in 2010 from all sources in the PM peak-hour at the critical intersections were used in conjunction with the CAL3QHC dispersion model to predict CO concentrations at sensitive receptor sites close to the roadways. The concentrations from all sources including the Proposed Action and background CO are shown in **Table D-2**. Background

CO consists of the existing CO emissions generated by the existing land uses and all other sources in the vicinity of the Proposed Action. Background CO was determined from the most recent (1996) CO monitoring in Eden Prairie and interpolated to the FCM site and adjusted for the year 2010. The background CO 1-hour and 8-hour concentrations are 2.7 and 1.8 ppm, respectively, for this analysis.

Table D-2 - Maximum Predicted Ambient CO Concentrations at Sensitive Receptors (overall concentration in ppm including background)

Receptor	2010 CO Concentrations					
	1-hour			8-hour		
	Back-ground	Prop. Action	Total	Back-ground	Prop. Action	Total
A1 On-Airport ⁽¹⁾	2.7	2.6	5.3	1.8	1.1	2.9
Pioneer Trail/TH 212 Intersection	2.7	3.4	6.1	1.8	2.1	3.9
Pioneer Trail/Mitchell Rd. Intersection	2.7	3.4	6.1	1.8	2.1	3.1
Federal Standard	35.0			9.0		
Minnesota Standard	30.0			9.0		

Sources: EDMS; CAL3QHC; David Braslau Assoc.

⁽¹⁾ The maximum 1-hour and 8-hour CO concentrations at public access locations on the airport occur at Receptor A1.

The local effects of the Proposed Action on CO concentrations are well below the 1-hour and 8-hour state and federal CO concentration standards, as shown in **Table D-2**. There is no location/site in the affected environment that has had a CO violation in the past or was in jeopardy of a violation in the future.

Proposed Action Construction Impact

The impact of the Proposed Action during construction is the total annual emissions of construction activity and No Action airport operational activity during construction minus the No Action airport operational activity during construction – i.e., the additional emissions due to construction. Emissions associated with the operation of the Proposed Action were considered but are not included in the analysis because there is no overlap; there can be no operations due to the runway extension until it is fully extended and there can be no operations due to the new south building area until it is fully constructed and hangars built for new based aircraft – both of which will occur after the construction is completed.

Construction Emissions Inventory

Potential air quality impacts from construction of the Proposed Action include fugitive dust associated with demolition and construction, fugitive dust along haul routes, exhaust and machinery-related emissions from construction equipment and haul vehicles on the site and along haul routes, and potential vehicular congestion in the vicinity of construction sites and

on haul routes. It is estimated that the construction would be completed in one year beginning in 2005.

Fill material would be transported from the new south building area to the construction areas for the improved Runway 9R/27L and associated taxiways. The material haul would take place over a relatively short distance and accomplished by only scrapers and dozers. It is estimated that eight (8) graders and two (2) dozers would be operating 8 hours per day, 5 days per week for 3 months to accomplish the material transport. No transport of material from off-site is anticipated. However, some other equipment associated with runway and taxiway construction is also assumed.

On-airport pollutant emissions from construction equipment have been estimated using emission factors provided by the EPA National Vehicle and Fuel Emissions Laboratory, which are the most recent data available. Estimated annual emissions using the EPA emission factors are presented in **Table D-3**. These emissions are based on average load factors, 480 hours per year of usage, and typical engine horsepower ranging from 200 to 500 hp.

**Table D-3 Annual CO Emissions by Type of Construction Equipment
(tons per year)**

Equipment Type (number)	CO
Scraper (8)	4.57
Grader (4)	1.47
Crawler Dozer (2)	1.30
Rubber Tired Loader (4)	1.38
Skid Steer (2)	1.57
Roller (2)	0.37
Trencher (2)	1.45
Tractor/Loader/Backhoe (4)	2.37
Total All Equipment	14.48

Sources: EPA; EDMS; David Braslau Assoc.

Other CO emissions are associated with employee trips to and from the construction site. It is assumed that all employees drive light duty gasoline trucks and that the average daily off-airport round trip is 30 miles over a six-month construction period or 156 days. An average off-airport speed of 30 mph is assumed for which the 2010 emission factor is 19.7 grams per mile. For on-airport emissions an average round trip of 1 mile and an average speed of 20 mph has been assumed for which the 2010 emission factor is 31.0 grams per mile. Estimated CO emissions in tons per year are presented in **Table D-4** for a range of employees.

**Table D-4 Estimated Off-Airport CO Emissions from Construction Employee Travel
(tons per year)**

Employees	On-Airport	Off-Airport
100	1	10
200	2	20

Source: David Braslau Assoc.

Total CO emissions from construction activity including construction equipment and employee vehicle emissions are summarized in **Table D-5**.

Table D-5 Total Construction Activity CO Emissions

Source	CO (tons per Year)
Construction Equipment	14
On-Airport Employee Trips	2
Total	16

Source: David Braslau Assoc.

Table D-5 shows that the CO emissions due to construction of the Proposed Action are well below the 100 tons per year EPA threshold for CO.

Findings

A local air quality modeling analysis shows that the Proposed Action would not cause or contribute to any new violation of a CO standard in the 2010 forecast year. An air quality emissions inventory analysis of on- and off-airport construction activity shows that the Proposed Action would be *de minimis* for CO emissions during construction.

Based on the preceding analyses, the Proposed Action would not:

- cause or contribute to any new violation of a CO standard,
- increase the frequency or severity of any existing violation of a CO standard, or
- delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

Agency and Public Review

In conjunction with the public participation requirements of the National Environmental Policy Act, on August 17, 2001 the FAA distributed a Draft General Conformity Determination as part of the *Expansion of Flying Cloud Airport, Supplement Draft EIS* (SDEIS) for public and agency review and comment. The 45-day comment period was extended several times to January 22, 2003. The EPA comments on the SDEIS did not include comments on air quality impacts or the Draft General Conformity Determination. FAA contacted EPA and EPA stated that they did not have any comments on the conformity determination.⁹ No comments were submitted by the Minnesota Pollution Control Agency (MPCA) or any other agency or person on the Draft General Conformity Determination.

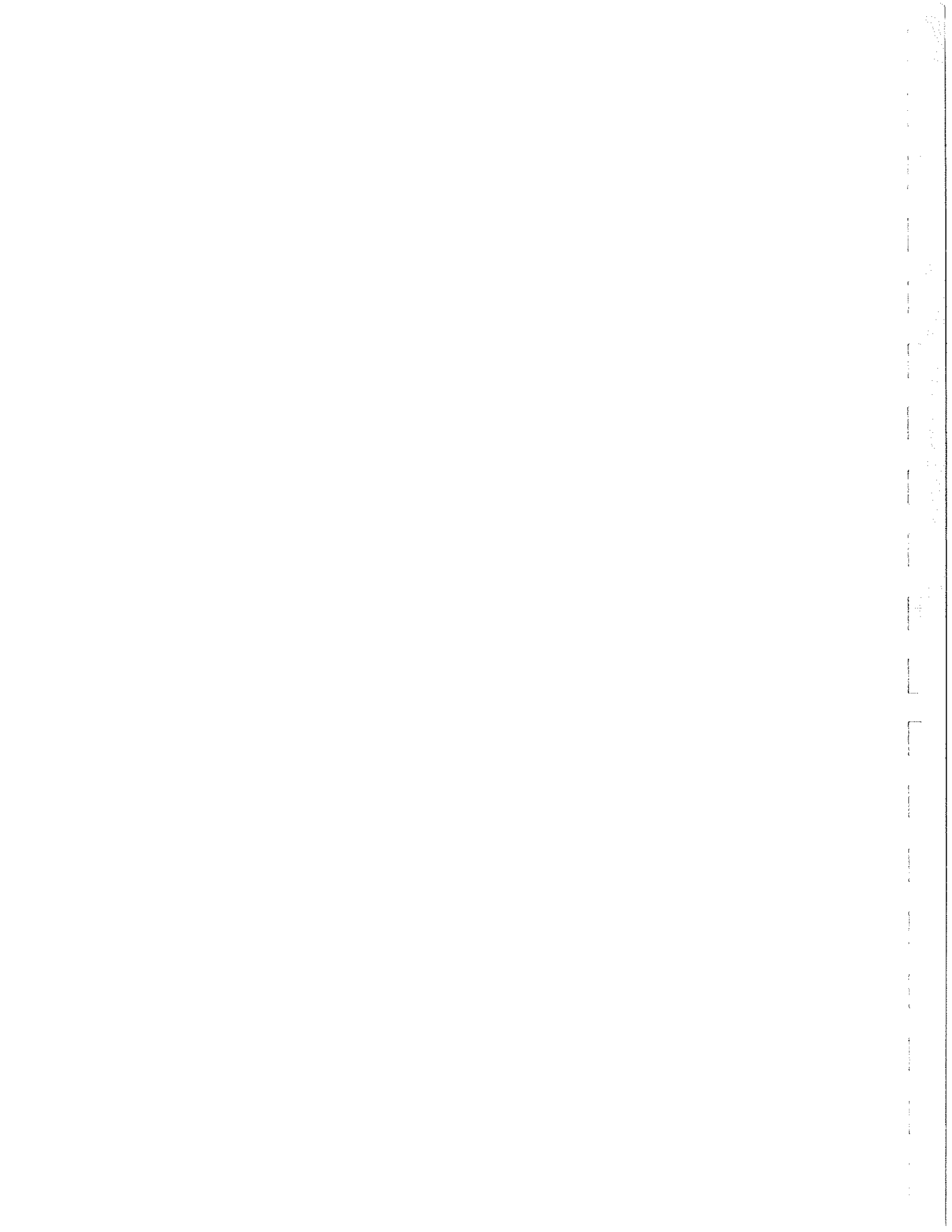
Determination of Conformity

Based on the above findings and agency and public review of these findings, the FAA has determined that the Proposed Action conforms to the Minnesota SIP for CO emissions, in accordance with 40 CFR Part 51, Subpart W, Paragraph 51.858, and Section 176(c) of the CAAA.

⁹ Telephone conversation between Glen Orcutt and Virginia Laszewski of EPA, October 3, 2001

ATTACHMENT E

**MEMORANDUM OF AGREEMENT AMONG THE FEDERAL
AVIATION ADMINISTRATION, THE MINNESOTA
HISTORIC PRESERVATION OFFICER AND THE
METROPOLITAN AIRPORTS COMMISSION**



**MEMORANDUM OF AGREEMENT
AMONG
THE FEDERAL AVIATION ADMINISTRATION,
THE MINNESOTA STATE HISTORIC PRESERVATION OFFICER,
AND THE METROPOLITAN AIRPORTS COMMISSION
REGARDING IMPLEMENTATION OF
RUNWAY EXTENSION AT FLYING CLOUD AIRPORT,
HENNEPIN COUNTY, MINNESOTA**

WHEREAS, the Federal Aviation Administration (FAA) issues airport grants and approves airport undertakings involving Flying Cloud Airport, which is operated by the Metropolitan Airports Commission (MAC); and

WHEREAS, the MAC is proposing to develop a new south building area at Flying Cloud Airport to accommodate the existing and future demand for additional hangars, and to increase the lengths of the existing parallel runways 10R/28L and 10L/28R; and

WHEREAS, creating a mandatory object-free safety zone and a clear approach surface at the east end of Runway 10R/28L will require the demolition of a number of hangars in Building Area No. 1, which is eligible for inclusion in the National Register of Historic Places; and

WHEREAS, the FAA has determined that the proposed undertaking will have an adverse effect on the Building Area No. 1 Historic District, and has consulted with the Minnesota State Historic Preservation Officer (MnSHPO) and the MAC pursuant to 36 CFR Part 800 implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

WHEREAS, the FAA has notified the Council of the proposed undertaking by a letter dated October 22, 2003; and

WHEREAS, the Eden Prairie Heritage Preservation Commission has participated in this consultation and has been invited to concur in this Memorandum of Agreement (Agreement);

NOW, THEREFORE, the FAA, the MnSHPO and the MAC agree that the Flying Cloud Airport Runway Extension Project shall be administered in accordance with the following stipulations to satisfy the FAA's Section 106 responsibility for this undertaking.

STIPULATIONS

The FAA will ensure that the following measures are carried out:

1. The MAC will develop and implement a mitigation plan for the Building Area No. 1 Historic District at Flying Cloud Airport. To develop this plan, the MAC shall hold an information-gathering meeting with persons familiar with the area's aviation history to identify alternatives

for types of mitigation that would be most appropriate, historical themes that should be highlighted, and possible locations for the mitigation. The MAC, in consultation with the FAA and MnSHPO, will review these alternatives and determine which should be implemented prior to the beginning of demolition at the Building Area No. 1 Historic District. The mitigation plan will be implemented within 12 months following the demolition.

The mitigation plan will be submitted to MNSHPO for review and concurrence, and a report on the mitigation project will be submitted to MNSHPO upon completion.

Professional Standards

2. The FAA shall ensure that all work carried out pursuant to this Agreement is carried out by or under the direct supervision of a person or persons meeting at a minimum the qualifications for historians and architectural historians as defined by the *Secretary of the Interior's Professional Qualifications Standards* (48 FR 44738-9).

Administrative Stipulations

3. The FAA shall ensure that MAC provides reports on all activities carried out pursuant to this Agreement to the MnSHPO and, upon request, to other interested parties.

4. The MnSHPO may monitor activities carried out pursuant to this Agreement. The FAA will cooperate with the MnSHPO in carrying out their monitoring and review responsibilities.

5. At any time during implementation of the measures stipulated in this Agreement, should an objection to any such measure or its manner of implementation be raised by a member of the public, the FAA shall take the objection into account and consult as needed with the objecting party, the MnSHPO, the MAC, or the Council to resolve the objection.

6. Any party to this Agreement may request that it be amended, whereupon the parties will consult in accordance with 36 CFR 800 to consider such an amendment.

7. Any party to this Agreement may terminate it by providing thirty (30) days notice to the other parties, provided that the parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, the FAA will comply with 36 CFR §§ 800.4 through 800.6 with regard to undertakings covered by this Agreement.

8. In the event the FAA does not carry out the terms of this Agreement, the FAA will comply with 36 CFR §§ 800.4 through 800.6 with regard to undertakings covered by this Agreement.

Execution and implementation of this Memorandum of Agreement evidences that the FAA has taken into account the effect of the Flying Cloud Airport runway extension project on historic properties and afforded the Council an opportunity to comment on the effect.

FEDERAL AVIATION ADMINISTRATION

By: Robert A. Zuber Date: 2-26-04

Title: Manager, Airports Dist. Office

MINNESOTA STATE HISTORIC PRESERVATION OFFICER

By: Jeanne Slomberg Date: 2/25/04

Title: Deputy SHPO

Invited Signature:

METROPOLITAN AIRPORTS COMMISSION

By: Ngel P. A. [Signature] Date: 2-26-04

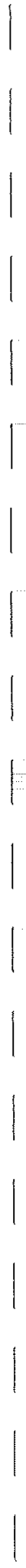
Title: Deputy Executive Director - Planning
& Environment

Concur:

EDEN PRAIRIE HERITAGE PRESERVATION COMMISSION

By: Lou Peterson-Benke Date: 2/25/04

Title: Chairperson



1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes the need for transparency and accountability in financial reporting.

2. The second part of the document outlines the various methods and techniques used to collect and analyze data. It includes a detailed description of the experimental procedures and the tools used for data collection.

3. The third part of the document presents the results of the study. It includes a series of tables and graphs that illustrate the findings of the research. The data shows a clear trend in the relationship between the variables being studied.

4. The fourth part of the document discusses the implications of the findings. It highlights the potential applications of the research in various fields and the need for further investigation in this area.

5. The fifth part of the document concludes the study and provides a summary of the key findings. It also includes a list of references and a bibliography of the sources used in the research.



Flying Cloud Airport Expansion



-  Acquired
-  Proposed Easement
-  Existing Easement
- Airport Property Line

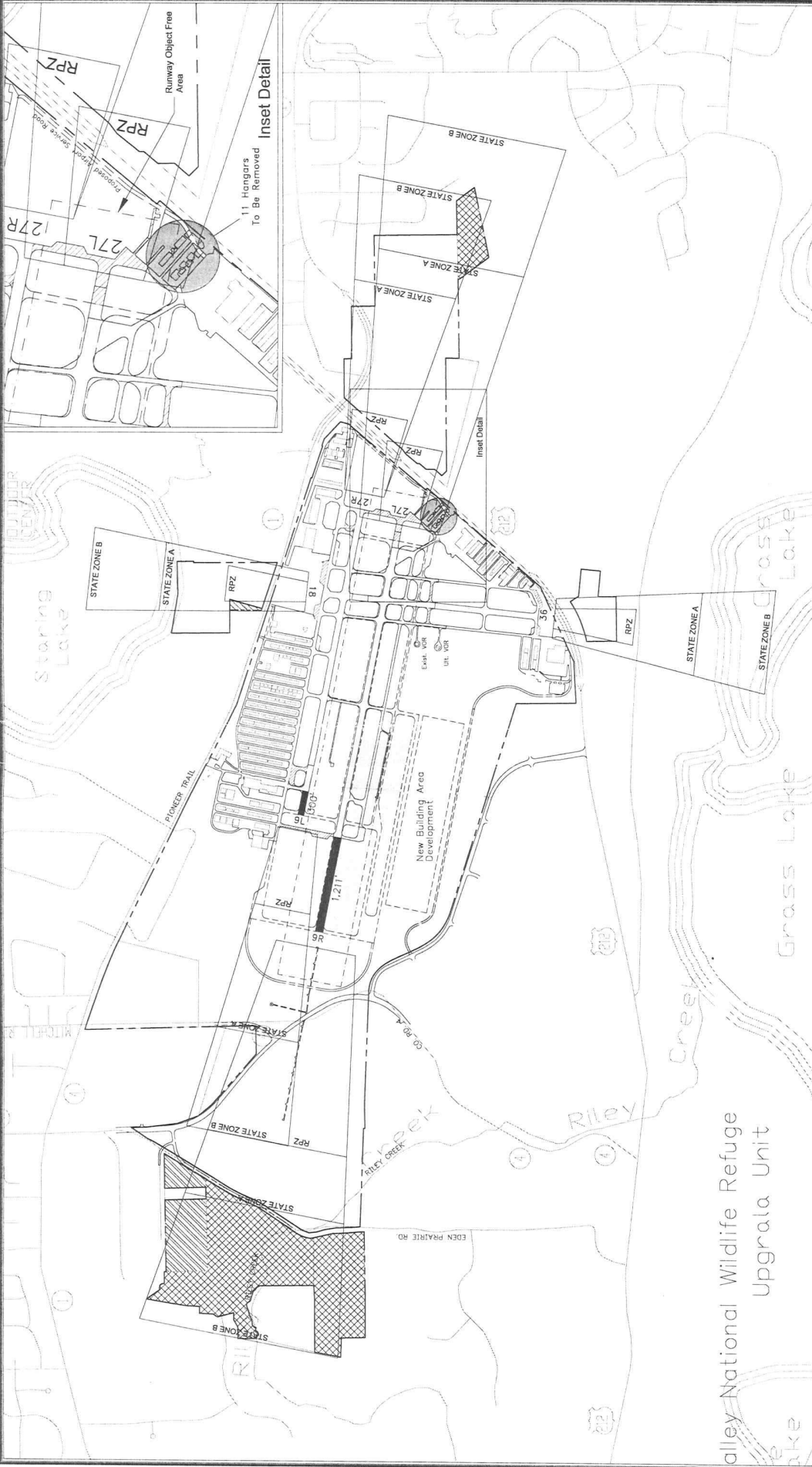




Source: HNTB, W.D. Schack

Figure 1
No Action Alternative

Flying Cloud Airport Expansion



Allely National Wildlife Refuge
Upgrada Unit



- Airport Property Line
- Proposed New Pavement
- Pavement To Be Removed

- Acquired
- Easement To Be Acquired
- Acquired and Resold with Easement

Source: HNTB, W.D. Schack



Figure 2
Alternative F