APPENDIX A.  FAA LETTERS COMMENTING ON PART 161 COMPLIANCE
Ms. Lisa LeBlanc-Hutchings  
City of Naples Airport Authority  
160 Aviation Drive North  
Naples, FL 34104-3568

Dear Ms. LeBlanc-Hutchings:

The following reflects Federal Aviation Administration (FAA) comments on the "Notice of Proposed Restriction on Stage 2 Jet Aircraft Operations at Naples Municipal Airport" and accompanying cost-benefit analysis (Study). We have also reviewed the 2000/2005 Noise Exposure Map (NEM) update that was incorporated by reference into the Part 161 Study. The restriction proposed in the Study is a 24-hour ban on Stage 2 aircraft weighing less than 75,000 pounds, with limited exceptions. The Study also briefly examined a full nighttime curfew and a nighttime curfew affecting only Stage 2 aircraft.

Compliance with 14 Code of Federal Regulations (CFR) Part 161, Subpart C

Section 161.203, Notice of Proposed Restriction: We note that the airport did an extensive notice and opportunity for public comment. Documentation in the appendices demonstrates a thorough effort to determine impacts on users and provide opportunity for input. Information regarding proposed enforcement mechanism(s) appeared to be lacking in the published notice, and should be included in any new notice (section 161.203(c)(5)).

Section 161.205, Required Analysis of Proposed Restriction and Alternatives: We have compared the contents of the notice and Study with the regulatory requirements and have determined that the Study does not meet the requirements of section 161.205(a)(3).

There are brief references in the Study to earlier Part 150 studies, and a summary paragraph on page 80 of the Study related to property values. However, the Study does not contain the required "description of the alternative measures considered that do not involve aircraft restrictions, and a comparison of the costs and benefits of such alternative measures to costs and benefits of the proposed...restriction." See also 14 CFR § 161.305(e)(2)(i)(2) (requiring,
for Stage 3 restrictions, evidence that other available remedies, including nonaircraft controls, are “infeasible or would be less cost-effective”); id., § 161.205(c) (noting that the information described in section 161.305 is also useful for analysis of Stage 2 restrictions); FAA Order 1050.11A, paragraph 8 (stating FAA policy that “all possible measures to reduce noise should be considered before airport restrictions are proposed”).

The FAA has briefly reviewed the 1996 and 1998 Part 150 Noise Compatibility Program (NCP) analyses. Neither document included information on numbers and types of noncompatible land uses within the DNL 60 dB noise contour, nor discussed any proposed non-restriction mitigation measures within that contour area, or why such measures are not viable. There does not appear to be any available documentation with which to make the comparison required by section 161.205(a)(3).

We note that the 1996 NCP provides some information on the Rock Creek Campground and Naples Villas area (page 5-3), including property values and numbers of parcels. The FAA approved Part 150 land-use mitigation recommendations in this area. The Part 161 Study states the land use measures have not yet been implemented. Is the area no longer within the DNL 65 dB noise contour? The 2000/2005 NEMs (Figures 3 and 4, June 2000 NEM submittal) do not explain whether this area remains noncompatible; in fact, the NEMs show no noncompatible land uses within the DNL 65 dB noise contour.

What alternative non-restriction operational measures were considered? For example, Gulfstream has developed an operational technique for its GII aircraft called "Quiet Flying." Gulfstream recommends the technique as the normal procedure for routine operations. Operators of the Lear 25 and Lear 35 aircraft use similar techniques at other airports (Van Nuys for example). The alternate departure procedures involve thrust cutback during initial climb. Benefits and costs of alternative departure techniques such as this should be included in the analysis of nonrestriction operational measures, or reasons provided why they were rejected at Naples Municipal Airport (APF).

In summary, the Part 161 Study concludes "that the NAA has exhausted all reasonably feasible non-restrictive measures to achieve its land use compatibility goal...," without documenting how it reached this conclusion. The Study is required to document this finding as part of the formal Part 161 process. The remedy for this deficiency is to include appropriate analysis of non-aircraft restrictions, show the comparison, and publish availability of the revised analysis in a new notice, in accordance with requirements of sections 161.209(b) and (c). (See below.)
Sections 161.207 and 161.209. Comment by interested parties/Requirements for proposal changes: Please note that for purposes of a revised notice and analysis, all parties that have commented on the proposed restriction are considered to be "interested parties" for purposes of direct notice for any revised analysis and notice. (161.209(a)) (See your statement at page 86.)

Section 161.209(b) states that "If there are substantial changes to the proposed restriction or the analysis during the 180-day notice period, the airport operator shall initiate new notice...." Change to the Study to fully meet the analysis requirements of 161.205 is a substantial change to the analysis.

Cost-Benefit Analysis

NAA's stated objective is "minimizing residential land within the DNL 60 dB, consistent with the City and County land-use policies." Study, page 78. It is not clear that the City of Naples and Collier County have in fact determined that residential use is noncompatible within the DNL 60 dB contour. The text of the City's ordinance, as set forth in Appendix D of the 2000 NEM Update, states that land within the DNL 60 dB contour "shall require GDSP [General Development Site Plan] approval by City Council," but it is unclear what this means in terms of noncompatibility of residential use. On its face, the ordinance does not clearly prohibit residential development within the DNL 60 dB contour. We have not been able to review the relevant Collier County ordinance, since neither the Study nor the 2000 NEM Update contains a copy. (The Study contains inconsistent statements regarding the status of the Collier County ordinance. See Study, pages 3 and 16.)

As part of the City's 1997 NCP update, the FAA approved a measure to use the DNL 60 dB contour "as a buffer to ensure that residential and noise sensitive uses are not developed too close to the Airport." 1997 Record of Approval (2000 NEM Update, Appendix A), measure 7.3.3. The Study does not indicate whether any of the residential development cited as noncompatible within the DNL 60 dB contour was permitted by the City after this approval.

The overall execution of the economic analysis appears professional and generally conforming with accepted economic practice.

A few additional concerns are noted:

- Survey data is an acceptable manner to collect information, but the findings must be applied in a rational manner.
• FAA, in its own analyses, is required to utilize Department of Transportation-mandated values of passenger time which for general aviation, an all purpose (mixed business and personal) aggregation, is $31.10 in 1995 dollars.

Although the Study may report the economic impact on local businesses, FAA's principal focus is on the national impacts of access restrictions. For purposes of Part 161 review, losses to local fixed-base operators or other local economic impacts are not of national concern, but may weigh heavily at the local decision level and may impact on the sponsor's ability to comply with its grant assurances.

As a result of certain values and assumptions incorporated in the economic analysis portion of the Study, the costs are probably overstated. For instance, attributing the entire aircraft replacement cost to the proposed restriction is clearly an overstatement if less expensive alternatives are available such as hushkitting or if such decisions are made for other financial or operational reasons not explicitly stated. The true cost should not exceed the marginal value of the flights to APF or the result is irrational.

For purposes of reporting the number of people benefitted from the restriction, it should be explained how the Part 150-approved land use mitigation measures are figured into the reported benefits and whether the sponsor plans to complete that mitigation.

Section 7.2.6 of the Study gives a projection of increased activity at alternate airports as a result of the 24-hour stage 2 restrictions. How were the incremental operations projected? Why did Southwest Florida International (RSW) get the majority of the operations?

We believe it is inappropriate to provide language for the Airport Facilities Directory and Jeppesen Publications until after the Part 161 comment period has been successfully concluded (page 87).

Following are additional editorial comments: Several places in the text appear to not provide appropriate references to exhibits. Examples: Page 35. The last paragraph indicates 145 operations in the survey base, but Exhibit 6-1 shows 128 operators to be contacted. Page 39. The text indicates five percent would substitute Stage 3 aircraft and Exhibit 6-4 shows a four percent substitution. Pages 50, 56 & 55. The text states the referenced exhibits indicate daily cost
but Exhibits 7-1 through 7-4 show Annual Cost and Exhibit 7-7 indicates total one-time cost.

Other Federal law

The FAA’s review of the proposed restriction is not limited to compliance with applicable provisions of the Airport Noise and Capacity Act (ANCA) and Part 161. ANCA does not supersede applicable requirements under pre-existing Federal law, including assurances in FAA-awarded airport development grants. The FAA is addressing, in separate comments, issues under other Federal law. There has been no previous Part 161 proposal in which the FAA has addressed the issue of the reasonableness of an access restriction designed to mitigate noise within the DNL 60-64 dB noise contour, with all land uses at DNL 65 dB and above being currently compatible. We would not make a final determination on whether the NAA’s specific proposal would be reasonable, under the grant assurances, without full consideration of the views of airport users.

The FAA stands ready to work with the NAA in accomplishing its noise-reduction goals in a manner consistent with all applicable requirements under Federal law.

Sincerely,

Woodie Woodward
Acting Associate Administrator for Airports
Mr. Theodore D. Soliday  
Executive Director  
Naples Airport Authority  
160 Aviation Drive North  
Naples, FL  34104

Dear Mr. Soliday:

In letters dated August 21 and September 18, 2000 the Federal Aviation Administration ("FAA") expressed concerns regarding the proposal by the City of Naples Airport Authority ("NAA") to adopt a ban on operations by Stage 2 jet aircraft ("the Stage 2 ban") at Naples Municipal Airport ("APF"). The FAA appreciates the NAA's subsequent efforts to address these concerns, including two letters from the NAA's counsel dated October 24, 2000, in response to the FAA. However, based on our review of all the information provided by the NAA, it appears that the NAA has adopted the Stage 2 ban without fully complying with applicable requirements under the Airport Noise and Capacity Act ("ANCA") and 14 C.F.R. part 161 ("Part 161"). This letter constitutes an effort to initiate informal resolution of this apparent noncompliance in accordance with 14 C.F.R. § 161.503. This section provides that:

"[T]he FAA shall undertake informal resolution with the airport operator to assure compliance with [ANCA] or this part upon receipt of . . . evidence that an airport operator has taken action to impose a noise or access restriction that appears to be in violation."

The FAA is aware that on November 16, 2000, the NAA adopted the Stage 2 ban, which becomes effective January 1, 2001. The FAA is also aware of a public notice issued by the NAA stating that the new restriction will be "vigorously enforced." The FAA strongly recommends that the NAA defer any implementation or enforcement of the ban until completion of the process to determine compliance under Subpart F of Part 161. See 14 C.F.R. §§ 161.501 – 161.505. Enforcement of the restriction prior to completion of the Subpart F process would result in an expedited enforcement procedure if informal resolution is unsuccessful. See 14 C.F.R. § 161.505(c).

Under the procedures in Subpart F, if informal resolution is not successful, the FAA issues a Notice of Apparent Violation, which commences a more formal
process under 14 C.F.R. § 161.505. Failure to provide satisfactory evidence of compliance or take satisfactory corrective action for a violation of ANCA or Part 161 results in loss of the airport operator’s eligibility for airport grants and of authority to impose or collect Passenger Facility Charges (PFCs). Without satisfactory evidence of compliance, section 161.501(b) provides the appropriate corrective action:

Rescission of, or a commitment in writing signed by an authorized official of the airport operator to rescind or permanently not enforce, a noncomplying restriction will be treated by the FAA as action restoring compliance with [ANCA] or [Part 161] with respect to that restriction.

The specific instances of apparent noncompliance are described below.

**Analysis of Nonrestrictive Alternatives**

As indicated in the FAA’s August 21 letter signed by the Acting Associate Administrator for Airports, the Part 161 Study appears to violate ANCA and Part 161 because it does not include an adequate analysis of nonrestrictive alternatives. ANCA provides that:

> [A]n airport noise or access restriction may include a restriction on the operation of stage 2 aircraft proposed after October 1, 1990, only if the airport operator publishes the proposed restriction and prepares and makes available for public comment at least 180 days before the effective date of the proposed restriction—

1. an analysis of the anticipated or actual costs and benefits of the existing or proposed restriction;

2. a description of alternative restrictions;

3. a description of the alternative measures considered that do not involve aircraft restrictions; and

4. a comparison of the costs and benefits of the alternative measures to the costs and benefits of the proposed restriction.

49 U.S.C. § 47524(b) (emphasis added). These statutory requirements are restated in Part 161. See 14 C.F.R. § 161.205(a). Public notice and an opportunity to comment on proposed airport noise and access restrictions are key components of the national aviation noise policy mandated by Congress in ANCA. See 49 U.S.C. § 47524(a) (requiring “adequate public notice and opportunity for comment” on proposed restrictions). In order for the public to have an adequate opportunity to comment on a proposed Stage 2 restriction, the information provided must include a meaningful analysis of alternatives, including nonrestrictive alternatives.
Moreover, the NAA’s Part 161 Study concludes that “the NAA has exhausted all reasonably feasible nonrestrictive measures to achieve its land use compatibility goal . . . .” (Part 161 Study, page 4). To comply with ANCA and Part 161, the NAA must provide a description of the nonrestrictive measures it considered and a comparison of the costs and benefits of these measures to those of the Stage 2 ban.

Based on the FAA’s review of the information provided by the NAA, it does not appear that the NAA has fully complied with 49 U.S.C. § 47524(b) and 14 C.F.R. § 161.205(a). Neither the notice nor the Part 161 Study appears to contain any analysis of the costs and benefits of nonrestrictive alternatives. Although the Study does briefly describe previous activities by the NAA pursuant to 14 C.F.R. Part 150, this does not satisfy the specific statutory requirement for a comparison of the costs and benefits of nonrestrictive alternatives to those of the Stage 2 ban. We note that other documents prepared by the NAA (“History of Noise Compatibility Efforts for Naples Municipal Airport,” dated October 2000, and “Naples Municipal Airport Part 161 Study Response to Comments,” dated November 16, 2000) contain significant additional information on nonrestrictive alternatives. However, these documents appear to have been prepared well after the close of the public comment period and therefore have not been subject to the required public notice and opportunity for comment. See 49 U.S.C. § 47524(b); 14 C.F.R. § 161.205(a)(3).

To resolve this apparent noncompliance, the NAA must do one of the following: (1) provide satisfactory evidence that it has prepared the comparison of costs and benefits required by ANCA and Part 161 and has made this comparison available for the statutorily-mandated 180-day period; (2) prepare the required comparison and make it available to the public for the required 180-day period before implementing or enforcing the Stage 2 ban (including a minimum 45-day public comment period, as required by 14 C.F.R. § 161.203(c)(7)); or (3) rescind, or commit in writing to rescind or permanently not enforce, the Stage 2 ban (see 14 C.F.R. § 161.501(b)). As stated previously, the FAA strongly recommends that the NAA refrain from implementing or enforcing the Stage 2 ban pending completion of the Subpart F process.

In addition to the apparent noncompliance discussed above, the FAA is also considering whether the NAA’s use of the DNL 60 dB contour to justify the Stage 2 ban complies with ANCA and Part 161. This issue will be addressed in separate correspondence, which will be provided shortly.

This letter only addresses compliance with ANCA and Part 161. It does not address issues under other Federal law, including the issue of whether the Stage 2 ban is reasonable and not unjustly discriminatory under the assurances in Federal Airport Improvement Program grant agreements entered into by the
NAA. That issue will be addressed if a complaint is filed under 14 C.F.R. part 16, or if the FAA elects to initiate an investigation under 14 C.F.R. § 16.305.

We look forward to continuing to work with the NAA to achieve full compliance with ANCA and Part 161.

Sincerely,

[Signature]

Woodie Woodward
Acting Associate Administrator for Airports

cc: Peter Kirsch, Special Counsel
JAN 30 2001

Mr. Theodore D. Soliday
Executive Director
City of Naples Airport Authority
160 Aviation Drive North
Naples, FL 34104

Dear Mr. Soliday:

Thank you for meeting with the Federal Aviation Administration (FAA) on January 4 to discuss issues relating to the ban on Stage 2 jet operations adopted by the City of Naples Airport Authority (NAA), and also the opportunity to present our views at the public meeting of the Authority on January 18. I felt these meetings were productive, and I hope that you, Ms. LeBlanc-Hutchings, and Messrs. Baldwin and Kirsch agree. I am appreciative of the case made by you for the need to continue to mitigate aircraft noise within your community, and I hope that we have clearly conveyed the ramifications of Federal laws governing airport noise and access restrictions.

The FAA’s letter to you dated December 27, 2000, indicated that we would provide the NAA with separate correspondence addressing the issue of “whether the NAA’s use of the DNL 60 dB contour to justify the Stage 2 ban complies with ANCA and Part 161.” This letter addresses the issue in light of our discussions on January 4 and January 18.

In preparing the analysis required by 14 C.F.R. § 161.205, an airport operator must identify the airport noise study area. 14 C.F.R. § 161.205(b). The FAA originally proposed to limit the airport noise study area to the area within the DNL 65 dB contour. See 56 Fed. Reg. 8644, 8663 (definition of “airport noise study area” in proposed § 161.5). In adopting the final Part 161 rule, the FAA revised the definition of the airport noise study area “to permit the applicant airport operator the same flexibility as that provided under part 150.” 56 Fed. Reg. 48661, 48670 (Sept. 25, 1991). The FAA explained that “part 150 permits, for reasonable circumstances, a degree of flexibility in determining a study area and the compatibility of land uses to noise.” Id. at 48669.

Therefore, while the airport operator may select the contours used to define the airport noise study area, extension of the airport noise study area outside the DNL 65 dB contour must be justified by “reasonable circumstances.” In order to provide the public with a meaningful opportunity to comment on the airport operator’s justification, this information must be made available to the public as part of the analysis required by ANCA and Part 161.
A showing of reasonable circumstances would include evidence of liability and other reasons of an airport proprietor for selecting an airport noise study area that deviates from Federal guidelines. As we discussed at the meeting on January 4, the NAA should be able to meet this requirement simply by providing the information that supports the statement, in Mr. Kirsch's October 24, 2000, letter to the director of the FAA's Office of Airport Safety and Standards, that the NAA's selection of the DNL 60 dB contour was based on a "reasonable assessment of potential liability." This information, like the information described in our December 27, 2000, letter relating to nonrestrictive alternatives, must be made publicly available for at least 180 days (including a minimum 45-day public comment period).

As discussed in David L. Bennett's letter of September 18, 2000, and in the January 18 meeting, as a recipient of FAA airport development grants the NAA agreed that it would make its airport available for public use on reasonable terms and without unjust discrimination to all types, kinds, and classes of aeronautical activities. As we noted in the meeting on January 4 and our presentation on January 18, the FAA will perform a substantive review of any analysis provided by the NAA, including information provided under Part 161, to determine whether or not the proposed restriction is consistent with the grant assurances. This review will include, among other things, a determination of whether or not the NAA has reasonably demonstrated a legitimate interest in avoiding liability for excessive noise generated by the airport.

With respect to the FAA's grant assurance determinations, it is only fair to tell you that our substantive considerations to date are not favorably inclined to find it reasonable to address the particular circumstances at Naples between the DNL 60 and 65 dB noise contours with a total ban on a class of user (i.e., Stage 2 aircraft operators). As the new NAA Chairman noted at the January 18 meeting, the NAA does not want to proceed further down the Part 161 path without a decision on whether the ban is permissible from the grant compliance perspective. The FAA does not want that either, and we will be providing more definitive information on grant assurance determinations within the next 3 weeks.

Again, I want to thank you for the opportunity to meet with you. It is the FAA's desire to assist the NAA in addressing aircraft noise in your community, while resolving issues raised by Federal law.

Sincerely,

Paul L. Galis
Deputy Associate Administrator for Airports
APPENDIX B. SCOPE OF WORK FOR SUPPLEMENTAL ANALYSIS
SCOPE
SUPPLEMENTAL ANALYSIS, DOCUMENTATION, AND PRESENTATION
NAPLES MUNICIPAL AIRPORT PART 161 STUDY

On June 30, 2001, the Naples Airport Authority (NAA) released a Part 161 study\(^1\) and provided a copy to the Federal Aviation Administration (FAA), in support of a “Notice of Proposed Restriction” of Stage 2 operations at Naples Municipal Airport (APF). FAA provided the NAA with written comments regarding compliance with Part 161 in three letters to NAA staff.\(^2\) The NAA directed staff to attempt to reach agreement with the FAA on the preparation and scope of supplemental analysis to address those comments.\(^3\) In response to that direction, NAA staff and consultants met with FAA staff on February 20, 2001 to discuss those comments in greater technical detail, with the objective of defining steps the NAA must take to address FAA comments regarding compliance with Part 161.

This document presents the resulting scope of services for the NAA, its staff, and consultants to follow to conduct, document, and present supplemental analyses, to fully satisfy outstanding FAA concerns. For ease of reference, this scope refers to the document that the NAA will prepare (and publicly distribute) as the “Supplemental Analysis” (“SA”). The FAA indicated in their written feedback on the draft of this scope that they would address notification requirements in a separate letter. Pending the receipt of that letter and the FAA review of the SA results, this scope does not address notification and comment processes.

The SA will address supplemental information and processing in three areas:

1. Define Airport Noise Study Area (ANSA)
   1.1 Further documentation of “reasonable circumstances”
   1.2 Provide evidence of liability

2. Document consideration of non-restrictive alternatives
   2.1 Land acquisition
   2.2 Sound insulation
   2.3 Noise abatement operating procedures (airport and aircraft)
   2.4 Voluntary restraint of Stage 2 operations

3. Document and Present Supplemental Analysis
   3.1 Prepare documentation
   3.2 Present Supplemental Analysis Results

The following scope will address those three elements.

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\(^2\) Letters from Ms. Woodie Woodward, Acting Associate Administrator for Airports, to Ms. Lisa LeBlanc-Hutchings, Director of Operations, NAA, (August 21, 2000), and to Mr. Theodore D. Soliday, Executive Director, NAA, (December 27, 2000), and from Mr. Paul L. Galis, Deputy Associate Administrator for Airports to Mr. Soliday (January 30, 2001).

\(^3\) NAA Resolution 2001-02.

March 8, 2001
1 Define Airport Noise Study Area

The SA will include, in a single document, supplemental information about reasonable circumstances that justify the use of the 60 decibel (dB) Day-Night Average Sound Level (DNL) contour for the annual average day to define the Airport Noise Study Area (ANSA). This supplemental information will fall into two areas: (1) an assessment of the NAA's potential noise-based liability outside of the DNL 65 dB noise contour, and (2) information about the local conditions that define the specific noise problem the NAA is trying to address and how these local conditions justify use of the DNL 60 dB contour to define the ANSA.

1.1 Assessment of the NAA's Potential Liability Outside of the DNL 65

The SA will provide an assessment of the potential for noise-related liabilities for inverse condemnation or other potential claims that the NAA might reasonably expect that it could face outside, the 65 dB DNL contour.

Roles:

HMMH: Integrate material into document.

Akin, Gump: Responsible for writing section.

MCG: None.

Senzig: None.

SH&E: None.

NAA Staff: None.

1.2 Further Documentation of “Reasonable Circumstances”

The SA will describe the local conditions that define the noise problem the NAA is trying to address and how these local conditions justify use of the DNL 60 dB contour to define the ANSA. Appropriate information could include the following:

- Summarize the process by which the City of Naples and Collier County selected and adopted the 60 dB DNL threshold for land use compatibility, including the relationship to APF Part 150 studies.

- Provide further discussion of bases for the City and County adoption of the 60 dB DNL land use compatibility threshold, including supporting documentation of resolutions adopted and other formal or informal steps taken prior to the Part 161 study related to the adoption of that threshold.

- Provide further documentation of development requests made since the City and County adopted the 60 dB DNL land use compatibility threshold, and actions that the City and County have taken to enforce that threshold, such as denying development approval or placing conditions on it.

- Provide information on local conditions that support the 60 dB DNL compatibility threshold, such as citizen lifestyles, expectations regarding noise levels, quality-of-life impressions, demographic or sociological factors that lead to sensitivity to noise at lower thresholds, meteorological and environmental conditions, historic issues, background (non-aircraft or “ambient”) noise levels, construction standards and building types, temporal exposure patterns, other factors that demonstrate why the more generally accepted 65 dB DNL compatibility threshold is not applicable at Naples, and other reasons the Airport Authority may have.

- Explain differences between City and County implementation of development controls within the 60 dB DNL contour, particularly the appearance that the City regulations do not set out specific
approval criteria, whereas the County provides for approval with sound insulation (within the 60 to 65 dB DNL contour).

**Roles:**

**HMMH:** Integrate material into document. Provide text on Part 150 and other FAA background to land-use compatibility criteria.

**Akin, Gump:** None.

**MCG:** Collect and document information from City and County on background to, and selection adoption, and implementation of 60 dB DNL land use compatibility criterion.

**Senzig:** None.

**SH&E:** None.

**NAA Staff:** Assist MCG in making local contacts. Assist in writing and integrating material from “History” document.

**2 Document Consideration Of Non-Restrictive Alternatives**

The SA will provide supplemental information addressing the costs, benefits, and feasibility of non-restrictive alternatives. The non-restrictive alternatives may not achieve the exact same benefit to residents or the exact same number of residents. The SA will discuss non-restrictive options in four areas.

**2.1 Land Acquisition**

The SA will present an estimate of costs associated with acquisition of residences within the ANSA that would have comparable benefit to the Stage 2 restriction. The cost estimates will include expenses related to property appraisals, property acquisition, relocation of residents to comparable housing, mortgage differentials, and other expenses normally covered in federally funded acquisition and relocation.

The SA may include discussion of locally complicating factors that might increase acquisition costs, or limit feasible alternatives, such as the lack of availability of comparable housing within reasonable distances.

**Roles:**

**HMMH:** Integrate material into document.

**Akin, Gump:** None.

**MCG:** Collect local data on property values within ANSA. Collect information to adjust tax valuation data to reflect market value. Assist SH&E in estimation of expenses related to property appraisals, property acquisition, relocation of residents to comparable housing, mortgage differentials, etc. Assist SH&E in writing section.

**Senzig:** None.

**SH&E:** Lead role in writing section. Develop data collection and analysis strategy with MCG.

**NAA Staff:** Assist MCG in making local contacts.

**2.2 Sound Insulation**

The SA will present an estimate of the approximate cost of sound insulating the dwelling units within the ANSA. The SA will discuss local conditions that affect the efficacy of sound insulation within
the ANSA, including factors such as lifestyle, housing types, and community expectations. The SA will summarize previous consideration of sound insulation in APF Part 150 studies and explain why there is no contradiction in the County regulations that permit residential development within the 60 dB DNL contour interval if it is sound insulated.

Roles:

HMMH: Lead role in writing section. Estimate sound insulation expenses. Identify local conditions that affect effectiveness of sound insulation.

Akin, Gump: None.

MCG: Develop estimate of numbers and types of residential units within ANSA, and provide general information on construction characteristics.

Senzig: None.

SH&E: Input to costing.

NAA Staff: Assist in identifying local conditions affecting effectiveness of sound insulation. Provide documentation of prior NAA and Noise Compatibility Committee consideration of sound insulation.

2.3 Noise Abatement Operating Procedures (Airport and Aircraft)

The SA will discuss airport and aircraft operating procedures.

As part of this discussion, the SA will identify local limitations on the design, implementation, and effectiveness of noise abatement procedures, such as altitudes at which noise abatement turns can safely be made, aircraft performance, runway length, local meteorological conditions, air traffic control limitations, operating costs, etc.

- Airport Operating Procedures

The existing elements of the NAA’s approved Part 150 Noise Compatibility Program for APF eliminate population within the 65 dB DNL contour. The NAA will reevaluate noise abatement and flight track procedures, to determine if alternatives to the current NCP elements might reduce population within the 60 dB DNL contour, without significantly increasing population within higher contour intervals or adding population from areas currently outside the contours.

The NAA will reevaluate the runway use priorities and noise abatement flight tracks, in light of the geographic distribution of population within the 60 dB DNL contour. The NAA will prepare DNL noise contours for alternatives that route flights away from areas within the 60 dB contour, to determine the effect on the population within higher contour intervals and in areas currently outside the contours.

Roles:

HMMH: Lead role in analyses and writing section. Integrate material into document. Prepare noise contours reflecting preferential runway use and noise abatement flight track alternatives to existing program to test whether there are tradeoffs between designing procedures to address 60 versus 65 dB DNL contour (budget for three contour sets).

Akin, Gump: None.

MCG: Prepare estimates of residential units and population within contours.

Senzig: Assist in noise modeling, including working with HMMH and NAA to identify modeling assumptions.

March 8, 2001
SH&E: None.

NAA Staff: Work with HMMH and Senzig to develop modeling assumptions for alternatives.

- **Aircraft Operating Procedures**

  Several comments on the Part 161 Study noted that “quiet flying” techniques, specifically “noise abatement departure profile” (NADP) procedures, could produce significant noise abatement benefits.

  The Part 161 analyses used standard Integrated Noise Model (INM) aircraft noise and performance data. The SA may discuss the effect on noise levels of modeling estimated current and predicted pilot compliance with these NADPs to evaluate potential noise benefits from NADP procedures.

  Development of alternate model inputs may include the following steps:

  - Evaluate data that Gulfstream provided in its comments related to Quiet Flying procedures for its Gulfstream jet aircraft.
  - Gather documentation from based operators and pilots as to the extent to which noise abatement procedures are used. The SA will explain what levels of voluntary compliance are reasonable to assume.
  - Contact FAA staff responsible for INM database development to identify available NADP inputs and procedures and obtain FAA approval for use of (and, if necessary, reliance upon) non-standard inputs.

**Roles:**

- **HMMH:** Lead role in writing section. Prepare noise contours in association with Senzig. Integrate material into document.

- **Akin, Gump:** None.

- **MCG:** Prepare estimates of residential units and population within DNL contour sets (budget for two).

- **Senzig:** Review Gulfstream data and use it and other readily available information to develop NADP inputs for “quiet” and “noisy” procedures to compare to INM standards for range of corporate jet types (budget for three types). Obtain FAA approval of modeling inputs. Work with HMMH to prepare single event noise contours (estimate three procedures for the three aircraft types, nine total.) Work with HMMH staff to prepare DNL contour sets (budget for two). Identify local factors that might affect implementation and effectiveness of NADPs. Review historic noise measurements conducted by NAA and consultants as input to estimation of percentage use of different procedures. Assist in preparing questions to include in survey of pilots regarding procedures used at APF.

SH&E: None.

- **NAA Staff:** Work with HMMH and Senzig to estimate percentages of pilots likely to use “noisy”, “standard”, and “quiet” procedures. Interview sample of pilots. Work with Senzig in reviewing historic noise measurements and in preparing questions to include in pilot survey.

**2.4 Voluntary Restraint Of Stage 2 Operations**

The SA will address voluntary restraint of Stage 2 operations, including:

- The current noise abatement program at APF includes a voluntary restriction on nighttime operations that the NAA publicizes in an extremely aggressive manner. The SA will discuss...
specific factors that lead the NAA to assume the degree of compliance with the existing voluntary nighttime restriction.

- The SA will present an estimate of the potential benefit of extending the voluntary restraint of nighttime Stage 2 operations to a 24-hour basis. The SA will present information that is reasonably easily obtained from operators regarding their probable response to a request to voluntarily restrain daytime operations; e.g., replace their aircraft with Stage 3 models, obtain Stage 3 recertification, operate in and out of another airport, use an alternate mode of transportation, not visit Naples, etc. The SA will not present a comprehensive survey of Stage 2 operators, but will focus on the most active operators, including operators who have requested waivers from the mandatory restriction, based operators, and operators with records of regular activity at the airport. Although such a sample would be relatively limited from a statistical basis and would be subject to individual operator biases, it will provide an estimate of the anticipated level of voluntary cooperation with the restriction proposal.

- The SA will discuss the potential noise benefits of reasonable levels of assumed compliance with a voluntary program.

Roles:

HMMH: Integrate material into document. Prepare DNL contour sets for potential range of compliance (budget for two).

Akin, Gump: Assist in writing discussion of likely compliance with voluntary procedures.

MCG: Prepare estimates of residential units and population within contour sets (budget for two).

Senzig: Assist HMMH in contour development.

SH&E: Assist in developing assumptions regarding potential compliance with voluntary restriction.

NAA Staff: Work with MCG to review results of prior operator interviews and performing additional pilot and operator interviews to determine potential compliance with voluntary Stage 2 restriction.

3 Process Supplement

The NAA will prepare the SA. Decisions regarding public notice and comment opportunities will be decided following receipt of FAA input on those processes and of FAA feedback on SA results.

3.1 Prepare Documentation

The SA will include the analysis described in this scope and will include a direct comparison of the benefits and costs of the restrictive and non-restrictive options.

Roles:

HMMH: Lead role in preparation of document.

Other firms and NAA: Write sections as discussed above and as required to document portions of the SA development and results.

3.2 Present SA Results

Ted Baldwin of HMMH and Peter Stumpp will prepare for and present a briefing to the NAA on the SA results.

March 8, 2001
Roles:

HMMH: Prepare for and present results in single day trip to APF.

SH&E: Prepare for and present results in a single day trip to APF.

Other firms and NAA: None.
APPENDIX C.  FAA CORRESPONDENCE ON SUPPLEMENTAL ANALYSIS
SCOPE AND NOTIFICATION
FACSIMILE TO: Ted Baldwin, Vice President, HMMH @ (781) 229-0707
From: FAA, Lynne Pickard, APP-600, Tele: (202) 267-3263
Subject: Informal mark-up comments to Draft Scope of Work for Supplemental Analysis, Naples Municipal Airport Part 161 Study
Date: 3/2/01

Attached is the FAA's markup of the scope of work for the supplemental part 161 cost-benefit analysis for the Naples Airport proposed Stage 2 ban. Our approach was to view this solely as a scope of work, so we removed references to FAA's preferences and references to discussion between the FAA and HMMH. The FAA will follow-up with a letter providing the answers to the IOUs we gave you at our February 20 meeting. Please call if you have any questions about our markups.

Below is substitute language for the section identified. The edit was too long to pen-and-ink onto the page.

1 Define Airport Noise Study Area:

*Insert:* (1) An assessment of the NAA's potential noise-based liability outside of the DNL 65 dB noise contour and (2) information about the local conditions that define the specific noise problem the NAA is trying to address and how these local conditions justify use of the DNL 60 dB contour to define the ANSA

1.2 Further Documentation of "Reasonable Circumstances"

The SA will describe the local conditions that define the noise problem the NAA is trying to address and how these local conditions justify use of the DNL 60 dB contour to define the ANSA. Appropriate information could include the following:
DRAFT SCOPE
SUPPLEMENTAL ANALYSIS, DOCUMENTATION, AND NOTIFICATION
NAPLES MUNICIPAL AIRPORT PART 161 STUDY

On June 30, 2001, the Naples Airport Authority (NAA) released a Part 161 study\(^1\) and provided a copy to the Federal Aviation Administration (FAA), in support of a “Notice of Proposed Restriction” of Stage 2 operations at Naples Municipal Airport (APF). FAA provided the NAA with written comments on the study in three letters to NAA staff.\(^2\) The NAA directed staff to attempt to reach agreement with the FAA on the preparation and scope of supplemental analysis to address those comments.\(^3\) In response to that direction, NAA staff and consultants met with FAA staff on February 20, 2001 to discuss those comments in greater technical detail, with the objective of defining steps the NAA must take to address FAA comments comprehensively regarding compliance with Part 161.

This document presents the resulting draft scope of services for the NAA, its staff, and consultants to follow to conduct and document supplemental analyses, and to provide notification and opportunity for comment, to fully satisfy outstanding FAA concerns. For ease of reference, this scope refers to the document that the NAA will prepare (and publicly distribute) as the “Supplemental Analysis” (“SA”).

\(\text{SA will address}\)

The FAA has requested supplemental information and processing in three areas:

1. Define Airport Noise Study Area (ANSA)
   1.1 Further documentation of “reasonable circumstances”
   1.2 Provide evidence of liability

2. Document consideration of non-restrictive alternatives
   2.1 Land acquisition
   2.2 Sound insulation
   2.3 Noise abatement operating procedures (airport and aircraft)
   2.4 Voluntary restraint of Stage 2 operations

3. Process Supplemental Analysis
   3.1 Prepare documentation
   3.2 Provide notice
   3.3 Provide 180-day notice period
   3.4 Provide 45-day comment period

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\(^2\) Letters from Ms. Woodie Woodward, Acting Associate Administrator for Airports, to Ms. Lisa LeBlanc-Hutchings, Director of Operations, NAA, (August 21, 2000), and to Mr. Theodore D. Soliday, Executive Director, NAA, (December 27, 2000), and from Mr. Paul L. Galis, Deputy Associate Administrator for Airports to Mr. Soliday (January 30, 2001).

\(^3\) NAA Resolution 2001-02.
The NAA staff and consultant discussions with FAA led to agreement that the following scope will address those three elements in a manner that satisfies the FAA's concerns and fulfills the Part 161 requirements.

1 Define Airport Noise Study Area

The FAA requests that the SA include, in a single document, supplemental information about unique local conditions that explain the use of the 60 decibel (dB) Day-Night Average Sound Level (DNL) contour for the annual average day to define the Airport Noise Study Area (ANSA). This supplemental information will fall into two areas: (1) further documentation of "reasonable circumstances", and (2) evidence of concerns about liability. (See attached language)

1.4 Further Documentation of "Reasonable Circumstances"

The SA should describe reasonable circumstances that justify the 60 dB DNL ANSA, including:

- Summarize the process by which the City of Naples and Collier County selected and adopted the 60 dB DNL threshold for land use compatibility, including the relationship to APF Part 150 studies.

- Provide further discussion of bases for the City and County adoption of the 60 dB DNL land use compatibility threshold, including supporting documentation of resolutions adopted and other formal or informal steps taken prior to the Part 161 study related to the adoption of that threshold.

- Provide further documentation of development requests made since the City and County adopted the 60 dB DNL land use compatibility threshold, and actions that the City and County have taken to enforce that threshold, such as denying development approval or placing conditions on it.

- Provide information on unique local conditions that support the 60 dB DNL compatibility threshold, such as citizen lifestyles, expectations regarding noise levels, quality-of-life impressions, demographic or sociological factors that lead to sensitivity to noise at lower thresholds, meteorological and environmental conditions, historic issues, background (non-aircraft or "ambient") noise levels, construction standards and building types, temporal exposure patterns, and other factors that demonstrate why the more generally accepted 65 dB DNL compatibility threshold is not applicable at Naples, and other reasons the Airport Authority may have.

- Explain differences between City and County implementation of development controls within the 60 dB DNL contour, particularly the appearance that the City regulations do not set out specific approval criteria, whereas the County provides for approval with sound insulation (within the 60 to 65 dB DNL contour).

1.5 Provide Evidence of Concerns about Liability

The FAA requests that the SA provide evidence of the potential for noise-related liabilities for inverse condemnation or other potential claims that the NAA might reasonably expect that it could face within, and even outside, the 60 dB DNL ANSA, based on comparable experience at other airports.

G:\PROJECTS\296464.APFDraft scope facsimile to faa.doc
2 Document Consideration of Non-Restrictive Alternatives

The FAA requests that the SA provide supplemental information addressing the costs and feasibility of non-restrictive alternatives that provide benefits that are similar to those anticipated for the Stage 2 restriction. The FAA does not request that the non-restrictive alternatives benefit the exact same residents or the exact same number of residents. Rather, the FAA requests that the SA discuss non-restrictive options with noise benefits that are roughly comparable in scale to the benefits provided by the Stage 2 restriction. The FAA requests that the SA discuss non-restrictive options in four areas:

2.1 Land Acquisition

The SA will present an estimate of costs associated with acquisition of residences within the ANSA that would benefit from the Stage 2 restriction. The cost estimates will include expenses related to property appraisals, property acquisition, relocation of residents to comparable housing, mortgage differentials, and other expenses normally covered in federally funded acquisition and relocation.

The SA may include discussion of locally complicating factors that might increase acquisition costs, such as the lack of availability of comparable housing within reasonable distances.

The FAA does not request that the SA discuss the reuse of acquired property.

2.2 Sound Insulation

The SA will present an estimate of the approximate cost of sound insulating the dwelling units within the ANSA.

The FAA recognizes that sound insulation is always less than a complete solution. The SA will discuss local conditions that affect the efficacy of sound insulation within the ANSA, including factors such as lifestyle, housing types, and community expectations.

The FAA requests that the SA summarize previous consideration of sound insulation in APF Part 150 studies and explain why there is no contradiction in the County regulations that permit development within the 60 dB DNL contour interval if it is sound insulated.

2.3 Noise Abatement Operating Procedures (Airport and Aircraft)

The FAA requests that the SA discuss airport and aircraft operating procedures, to demonstrate that there are no non-restrictive options that would yield the same benefit as the Stage 2 restriction.

As part of this discussion, the SA will identify local limitations on the design, implementation, and effectiveness of noise abatement procedures, such as altitudes at which noise abatement turns can safely be made, aircraft performance, runway length, local meteorological conditions, air traffic control limitations, operating costs, etc.

• Airport Operating Procedures

The existing elements of the NAA's approved Part 150 Noise Compatibility Program for APF eliminate population within the 65 dB DNL contour. The FAA requests that the NAA evaluate noise abatement and flight track procedures, to determine if alternatives to the current NCP elements...
might reduce population within the 60 dB DNL contour, without significantly increasing population within higher contour intervals or adding population from areas currently outside the contours.

The NAA will reevaluate the runway use priorities and noise abatement flight tracks, in light of the geographic distribution of population 60 dB DNL contour. The NAA will prepare DNL noise contours for alternatives that route flights away from areas within the 60 dB contour, to determine the effect on the population within higher contour intervals and in areas currently outside the contours.

- Aircraft Operating Procedures

Several comments on the Part 161 Study noted that “quiet flying” techniques, specifically “noise abatement departure profile” (NADP) procedures, can produce significant noise abatement benefits. The FAA notes that the Part 161 analyses used standard Integrated Noise Model (INM) aircraft noise and performance data. The FAA requests that the SA discuss the effect on noise levels of estimated alternate model inputs. The FAA requests that the process include the following steps:

- Contact Burbank Airport to obtain information that its consultants have collected regarding the NADP implementation, modeling, and effectiveness.
- We can only ask if JLS staff is aware of the potential noise benefits from current and predicted pilot compliance.
- Evaluate data that Gulfstream provided in its comments related to Quiet Flying procedures for its Gulfstream jet aircraft.
- Gather documentation from base operators and pilots as to the extent to which noise abatement procedures are used.
- Contact FAA staff responsible for INM database development to identify available NADP inputs and procedures to obtain FAA approval for use of (and, if necessary, reliance upon) non-standard inputs and modeling as a justification for implementation of a noise or access restriction, notwithstanding FAR § 161.9(b).

The FAA recognizes that the NAA currently requests that pilots use appropriate NADPs and has implemented an aggressive program to promote voluntary compliance. Therefore, it is reasonable to assume that the existing program reflects the potential benefits. Pilots use NADPs on a purely voluntary basis; the FAA does not permit airports to require pilots to use specific procedures. Such a requirement would be impossible for an airport proprietor to enforce. Moreover, the FAA considers it unsafe to base operating restrictions on measured single event limits.

The FAA requests that the SA explain factors that make it impossible to determine actual procedures that pilots use and to enforce compliance with voluntary procedures. The FAA requests that the SA will explain what levels of voluntary compliance are reasonable to assume.

The SA will include analysis of operating procedures to consider reasonable assumptions regarding ranges of potential compliance with NADPs and less favorable procedures. Standard INM modeling inputs represent an average level of performance resulting from a mix of procedures. The SA will summarize information from readily available sources that support a practical approach to developing reasonable assumptions regarding the extent to which the standard inputs represent average performance at APF. The FAA requests that the SA include this analysis even though the FAA recognizes it is impossible to determine the specific procedures used on a flight-by-flight basis.

2.4 Voluntary Restraint Of Stage 2 Operations

The FAA requests that the SA address voluntary restraint of Stage 2 operations, including:

- The current noise abatement program at APF includes a voluntary restriction on nighttime operations that the NAA publicizes in an extremely aggressive manner. The FAA requests that the SA discuss specific factors that lead the NAA to assume that it is unreasonable to expect any significant increase in compliance with the existing voluntary nighttime restriction.

- The FAA requests that the SA present an estimate of the potential benefit of extending the voluntary restraint of nighttime Stage 2 operations to a 24-hour basis. The FAA suggests that the SA present information that is reasonably easily obtained from operators regarding their probable response to a request to voluntarily restrain daytime operations; e.g., replace their aircraft with Stage 3 models, obtain Stage 3 recertification, operate in and out of another airport, use an alternate mode of transportation, not visit Naples, etc. The FAA does not suggest that the SA present a comprehensive survey of Stage 2 operators; rather, the SA should focus on the most active operators, including operators who have requested waivers from the mandatory restriction, based operators, and operators with records of regular activity at the airport. The FAA understands that such a sample would be relatively limited from a statistical basis and would also be subject to individual operator bias, but will provide an anticipated level of voluntary cooperation with the restriction proposal.

- The SA will discuss the potential noise benefits of reasonable levels of assumed compliance with a voluntary program.

3 Process Supplement

The NAA will prepare the SA, and provide public notice and comment opportunities on that document.

3.1 Prepare Documentation

The SA will include the analysis described in this scope and will include a direct comparison of the benefits and costs of the restrictive and non-restrictive options.

3.2 Provide Notice

The FAA recognizes that the NAA’s original notice exceeded Part 161 requirements. NAA will provide public notice of the availability of the SA in a manner consistent with Part 161 requirements for an original Part 161 study. Prior to the completion of the SA, the FAA will provide NAA with its views on two matters:

- Whether the FAA requests that the NAA provide the same level of notification that it undertook for the original Part 161 submission, including direct notice to the same parties and publication of the notice in the same publications.

- Whether the FAA requests that the NAA provide direct notification to every party who submitted a comment on the original submission.
3.3 Provide 180-Day Notice Period

The NAA will make the SA available for 180 days prior to taking any action based upon the SA, in accordance with 14 CFR 203.

3.4 Provide 45-Day Comment Period

The NAA will provide a 45-day period for public comment (within the 180-day notice period), in accordance with 14 CFR 203.
Mr. Theodore D. Soliday  
Executive Director  
City of Naples Airport Authority  
160 Aviation Drive North  
Naples, FL 34104  

Dear Mr. Soliday:

This letter follows up our February 20 meeting on the proposed scope of work for the Part 161 supplemental analysis. The scope of work prepared by your consultant HMMH and dated March 8, 2001, addresses the Part 161 deficiencies previously identified by the Federal Aviation Administration (FAA) and discussed in greater detail on February 20. The FAA agrees that this scope of work provides a sound basis on which to proceed to remedy the Part 161 deficiencies.

The scope of work directs the consultant to develop up to three aircraft departure procedures. The FAA looks forward to working with the consultant, as per the scope of work, regarding the development of nonstandard procedures.

I want to emphasize that remediying the Part 161 deficiencies will only partially resolve issues of Federal law that apply to the Naples Stage 2 ban. The more difficult substantive issues of Federal law, namely the outstanding grant compliance issues outlined in my February 16 letter to Chairman West, must also be resolved to ensure Naples’ compliance with all applicable Federal law. I strongly encourage you to give grant compliance issues the level of attention and resolution that you have given Part 161 issues before investing more time and money in a Part 161 supplemental analysis.

At the February 20 meeting, we agreed to provide additional guidance concerning two Part 161 matters: (1) the process for providing public notice of the supplemental analysis and (2) the format for the supplemental analysis.

The process for providing public notice of the supplemental analysis is set forth at 14 C.F.R. § 161.209(b) and (c). Your public notice for the supplemental analysis should follow the procedures in § 161.203, and include the additional information in the body of the notice required by § 161.209. In response to
your specific question, we do not believe it is necessary to provide direct notice to every commenting party under these circumstances, nor does the Naples Airport Authority (NAA) have to advertise in every venue previously utilized.

With respect to format, the supplemental analysis need not be combined with the NAA's original Part 161 cost-benefit analysis of June 2000 in a single document. Neither the Airport Noise and Capacity Act nor Part 161 prescribes a format for the required comparison of the costs and benefits of alternative measures to those of a proposed restriction. Whatever format is used should facilitate a comparative review of the costs and benefits of the Stage 2 ban and all the alternatives. In this regard, we suggest that, in addition to the detailed analysis of nonrestrictive alternatives, the supplemental document also include a comparative summary of all the alternatives, incorporating and referencing material from the original Part 161 study where appropriate. The original and supplemental documents together would comprise the full cost-benefit analysis required by Part 161.

The FAA is willing to review the supplemental analysis in draft form prior to its printing and release for the formal comment period in order to advise you whether all Part 161 deficiencies have been satisfactorily addressed.

I understand that Authority members will be meeting this week to discuss the next steps to be taken. I request information regarding the outcome of this meeting as soon as possible, since the Authority's actions regarding the Stage 2 ban affect FAA decisions on your pending Passenger Facility Charge (PFC) application and on a potential grant assurance compliance review.

It is my hope that the Authority members will take a broader view of this matter and will resolve to maintain compliance with all Federal law while continuing to address the community's noise concerns. This is the approach that you have successfully followed in the past, and I encourage you to take the same approach in your current efforts.

Sincerely,

[Signature]
Paul L. Galis
Deputy Associate Administrator for Airports

Enclosure

cc: Ted Baldwin, HMMH