



SNOHOMISH COUNTY



PAINE FIELD

REPORT
ON
MEDIATED ROLE
DETERMINATION
FOR
PAINE FIELD

MAY 16, 2007

PETER CAMP

Executive Director

Office of County Executive Aaron Reardon

TABLE OF CONTENTS

EXECUTIVE SUMMARY	3
MRD	5
CHANGES	8
Milestones since 1978	9
Additional Runway	9
Airport Master Planning	10
Other Changes	10
2002 Economic Stimulus Action Plan	10
UPDATING THE MRD DOCUMENT	12
1978 MRD DOCUMENT	15
1979 MRD DOCUMENT	22
UPDATED 1978 MRD DOCUMENT (Legislative Format)	32
UPDATED 1979 MRD DOCUMENT (Legislative Format)	39
UPDATED 1978 MRD DOCUMENT	44
UPDATED 1979 MRD DOCUMENT	49
KAPLAN KIRSCH ROCKWELL MEMORANDUM	51
COUNTY COUNCIL ACTIONS	83
Motion 89-059 (February 21, 1989)	84
Joint Resolution 92-010 (March 18, 1992)	88
Joint Resolution 94-013 (September 21, 1994)	90
Motion 01-255 (2001)	92
Motion 02-453 (2002)	94
COMMUNITY PANEL	108
MEETINGS	109
COMMUNITY PANEL MEMBERS' VIEWS	110
AJ Chase	110
Don Doran	110
Tom Gaffney	110
Gary Haakenson	110
Tom Hoban	111
Lori Kaiser	111
Kevin Laverty	112
Michelle Robles	113
John Shaw	113

Ray Stephanson	114
Hugh Townsend.....	114
Mark Wolken	115
COMMUNITY PANEL MEETING MINUTES.....	116
November, 1 2005.....	116
March 2, 2006	120
April 6, 2006.....	125
April 20, 2006.....	129
May 4, 2006	133
May 18, 2006.....	140
June 1, 2006.....	147
June 15, 2006.....	152
October 18, 2006.....	158
November 9, 2006.....	159
November 30, 2006	163
December 14, 2006	168
DORAN PROPOSAL.....	174
SHAW/WOLKEN/TOWNSEND PROPOSAL.....	185

EXECUTIVE SUMMARY

In 1978, the University Of Washington Office Of Environmental Mediation convened a panel to recommend the future role of the Snohomish County Airport (Paine Field). The “mediated role determination” (MRD) panel suggested that general aviation and commercial aeronautical work (such as Boeing’s Everett plant) be the dominant uses of Paine Field. The MRD Panel recommended encouraging those uses, and discouraged any usages incompatible with community harmony.

In late 1978 and early 1979, the Snohomish County Planning Commission adopted the recommendations and forwarded them to the County Commissioners who adopted the recommendations with few changes. These two documents are colloquially known as the “MRD Document”.

The community and aviation business changed dramatically in the past quarter century. Population zoomed. Aeronautical technologies improved, with larger jets becoming quieter. Environmental and land use and planning laws became ever more stringent. The form of County government changed from a commission system (in which the commissioners handle both the legislative and executive functions of government) to an executive/council form of government (in which the executive leads, provides policy direction, and operates the government while an elected council decides overarching policy issues and approves the budget). The 1980s saw many fights around the country between local jurisdictions and the aviation industry over noise and other impacts from a burgeoning scheduled passenger air service industry. Those fights led the federal government to pre-empt local attempts to control the type, frequency, and noise of scheduled passenger air service.

After booming through the 1990s, the economy saw a downturn with the dawn of the 21st century. The terrorist attacks on the World Trade Center in New York City exacerbated the economic problems. Boeing laid off thousands. The County Council and then County Executive Bob Drewel formed a task force to develop methods of stimulating the local economy. The task force produced an economic stimulus action plan in 2002.

The 2002 action plan called for exploration of regional air service and for specific steps to prepare the way for regional air service. This plan concerned the communities of south Snohomish County. Many south County residents believed the MRD Document forbade scheduled passenger air service and were concerned that scheduled passenger air service would disrupt and diminish the quality of life that attracted them to the area.

In 2005, County Executive Aaron Reardon formed a panel of twelve community members to review and update the role of Paine Field defined by the Snohomish County Commissioners in 1978, and charged the community panel to update the MRD Document

The community panel held its first meeting in November 2005 and heard from numerous experts on such diverse topics as land use, noise, airport operations, and airport law.

This report chronicles the perspectives of the community panel members.

Some community panel members viewed the MRD Document as an important, fundamental social compact between the County government and the citizens and south County cities. Some of these community panel members would like to see the MRD Document rewritten to more clearly state a dislike for scheduled passenger air service.

Other community panel members believed the MRD Document has been overtaken by events and is no longer relevant except as an historical relic. They believe the MRD Document is subsumed within Comprehensive Plans mandated by the State's Growth Management Act and Airport Master Plan. They say the MRD Document informed the decisions made in the Comprehensive and Master Plans, and the Plans now describe the appropriate role of Paine Field.

These community panel members would like to see scheduled passenger air service at Paine Field and felt such service would drive economic development and provide a substantial convenience to users. This perspective was countered by other community panel members who vehemently disagreed, arguing no evidence supported the claim that scheduled passenger air service would stimulate economic development and claiming that scheduled passenger air service would devalue property and diminish a cherished quality of life.

The panel completed its charge in December 2006. The community panel substantially agreed on how to update the language, though some felt no need to update the MRD Document at all. For example, the community panel generally agreed that references to military aircraft operations could be deleted because Paine Field no longer hosts a military aviation unit.

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

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

The leadership of Executive Reardon provided a much needed and long overdue community discussion. Many misunderstandings regarding the effect of the MRD Document were dispelled and regional citizens on all sides of the aviation issue came away with a clearer and better understanding of the technical and regulatory environment in which the airport operates.

MRD

In 1978, the University of Washington Office of Environmental Mediation convened a panel to help determine the appropriate future role of the Snohomish County Airport, informally known as Paine Field.¹ Snohomish County owns and operates Paine Field. The panel sent its first set of recommendations to the Snohomish County Planning Commission. The Planning Commission reported findings and recommendations to the County Board of Commissioners. On April 11, 1978, the County Commissioners adopted the Planning Commission's findings and recommendations with few changes. A few months later, further recommendations were made and adopted. The 1978 and 1979 documents are collectively and colloquially known as the "Mediated Role Determination Document", or, more commonly, the "MRD Document".

The panel apparently considered a number of defined roles for the future of Paine Field. The Planning Commission and County Commissioners adopted the "General Aviation Role", but used the growth rate forecast by the "Do Nothing" role.²

The principal aviation objectives of the General Aviation role would be to retain and, enhance light aircraft general aviation as the dominant aeronautical activity at Paine Field. This role would provide for a reasonable amount of airport facility expansion and modernization to accommodate the expected growth of this activity. Future aircraft operations would be keyed to the substantial growth rate projected in the Do Nothing role. This approach would impose strict control on any aviation activity with potential for adverse environmental impact. [Emphasis added.³]

The chosen General Aviation role encouraged expansion of some activities, conditioned upon adequate mitigation of adverse effects on the community.

Other aviation activities which would be **encouraged** to continue operation and expansion at Paine Field include: **aircraft related industries, business and corporate aviation, public service aviation and air taxi service.** Reasonable expansion of these activities would be permitted, provided they do not interfere with light aircraft general aviation or The Boeing Company activities. **Expansion of these activities would also be contingent upon their ability to satisfactorily mitigate potential adverse impacts on the community.** [Emphasis added.⁴]

¹ PAE is the Federal Aviation Administration's three letter code for the airport.
http://www.faa.gov/atpubs/LID/A_P.htm

² The panel's recommendations, as handed down to us from the County Commissioner's adoption of the Planning Commission's recommendations, did not clearly define the roles adopted, nor did they define the roles they rejected.

³ See 1978 MRD DOCUMENT
, *infra*, at page 15.

⁴ *Id.*

The General Aviation role discouraged other activities because of inevitable adverse effects on the community or their inconsistency with the encouraged primary use of general aviation.

Existing aviation activities at Paine Field which would be **strongly discouraged from expanding** because of their **inconsistency** with the airport's **primary aviation role** as well as their **unavoidable adverse impact** on the surrounding community include **supplemental/charter air passenger service, large transport crew training operations, air cargo aviation and military aviation.** [Emphasis added.⁵]

The MRD Document did not define its terms, nor did it use terms consistently. For example, the 1979 document added “commuter service” without explanation regarding the addition (or its omission from the 1978 document).⁶ Nor did the MRD Panel bequeath us a definition of what it meant by such terms as “commuter service” or “Do Nothing Role”. The closest historical reference to “commuter service” is found in the 1977 Paine Field Community Plan, which referred to “commuter” as 30-50 seat aircraft.⁷

Snohomish County Council took actions implicating the MRD Document at least five times since 1979.

- 1989** County Council reaffirmed the “General Aviation role” described by the MRD Document and rejected allowing freight, even with strict noise controls.⁸ (February 21, 1989)
- 1992** Three years later, Council passed a joint resolution reaffirming the MRD Document and rejecting a Puget Sound Regional Council draft report considering major commercial airline service at Paine Field or Arlington.⁹ (March 18, 1992)
- 1994** County Council again reaffirmed the County’s commitment to the existing role of Paine Field, and discouraged the Puget Sound Regional Council from including Paine Field in a list of potential commercial airline sites.¹⁰ (September 21, 1994)

⁵ *Id.*

⁶ *Compare*: “Other aviation activities that would be encouraged to continue and expand would be aircraft-related industries, business and corporate aviation, public service aviation, air taxi and commuter service,” (1979 MRD Document, *infra*, at page 24 (emphasis added)) with, “Other aviation activities which would be encouraged to continue operation and expansion at Paine Field include: aircraft related industries, business and corporate aviation, public service aviation, and air taxi service,” (1978 MRD Document, *infra*, at page 17). The words, “and commuter”, were added without explanation.

⁷ Paine Field Community Plan, N-61 (December 15, 1977).

⁸ *See* Motion 89-059 (February 21, 1989), *infra*, at page 84.

⁹ *See* Joint Resolution 92-010 (March 18, 1992), *infra*, at page 88.

¹⁰ *See* Joint Resolution 94-013 (September 21, 1994), *infra*, at page 90.

- 2001** County Council adopted the regional low forecast because, “it is most consistent with existing County Policy stated in the 1978/1979 MRD” and again reaffirmed the General Aviation Role.¹¹ (July 25, 2001)
- 2002** County Council adopts an Economic Stimulus Plan that includes “exploration of the regional air service market at Paine Field.”¹² (October 22, 2002)

The motion adopting the 2002 Economic Stimulus Plan did not mention the MRD Document, nor did it attempt to reconcile an apparent conflict between the MRD Document’s discouragement of scheduled passenger air service with the Stimulus Plan’s action items to prepare for scheduled passenger air service. The conflict between the prior actions and the Stimulus Plan upset the south County community, who believed the MRD Document was a promise to discourage, if not prohibit, scheduled passenger air service.¹³

Dramatic changes occurred in the generation between the County Commissioner’s adoption of the MRD Document in 1978-1979 and now. The population changed. The built environment changed. The legal and regulatory environment changed.

¹¹ See Motion 01-255 (2001), *infra*, at page 92.

¹² See Motion 02-453 (2002), *infra*, at page 94.

¹³ S. Wilhelm, “Air Battle Brewing: Everett’s Paine Field Eyes Commercial Flights”, Puget Sound Business Journal (Seattle) (November 19, 2004), (<http://www.bizjournals.com/seattle/stories/2004/11/22/story3.html?page=1>). See, e.g., the 2005 Lynnwood City Council resolution “Re-Affirming Its Position Opposing Any Expansion of the Operations of Paine Field Airport to Provide Regional or Major Commercial Passenger Airline Service” (available on line at <http://www.ci.lynnwood.wa.us/ECouncilDocs/Items/1395/Resolution-Paine%20Field-mck.doc>) and “Resolution [no. 1095] Restating Opposition to Commercial Air Passenger Service at Paine Field,”¹³ by Edmonds City Council (June 7, 2005) (<http://www.ci.edmonds.wa.us/CityCouncil/CouncilArchives/2005/Cm050607.pdf>).

CHANGES

Snohomish County changed substantially since 1979. The form of government changed in the early 1980s from a commissioner form of government to a home rule county executive and county council form of governance.¹⁴ The County's population doubled, rising from 337,720 in 1980 to more than 671,800 in 2006.¹⁵

Washington State changed, too. The 1980s and early 1990s saw the renaissance of Boeing, whose wide body airplane manufacturing facility is adjacent to Paine Field. Boeing employment fell from 103,000 in 1998 to 64,000 in 2002.¹⁶ Boeing added 4,000 jobs in Washington State since 2002.¹⁷

Snohomish County's economy diversified. A growing biotech and technology community developed, centered in Canyon Park at the intersection of State Route 527 and Interstate 405 in Bothell. Thirty-five biotech and medical technology firms employ 5,000 people in southern Snohomish County.¹⁸

The regulatory environment changed. Environmental laws grew stronger. The state legislature adopted the Growth Management Act.¹⁹ The Growth Management Act required counties such as Snohomish County, and larger cities, to plan for growth in its land use policies, transportation planning and policies, and utilities. Each planning jurisdiction must study, create and adopt a Comprehensive Plan reflecting the jurisdiction's planning for growth.

Air travel changed, too. The federal government's Civil Aeronautics Board highly regulated scheduled passenger air service²⁰ through the 1970s. Congress deregulated the passenger air service in 1978. Some aviation industry pioneers went out of business, such as Pan American World

¹⁴ The commissioner form of government is the only government form authorized for counties that have not adopted home rule charters. *See* RCW Chap. 36.32 (1971). (<http://www.mrsc.org/Subjects/Governance/locgov12.aspx>) "Under the commission form, the county governing body consists of an elected board composed of three commissioners who serve as the legislative body and also perform executive functions." *Id.* Scandals of the late 1970s led to a change of County governance by adoption of a charter under the Constitution's home rule provisions. Wash. Const. Art. XI, §4. The charter separated the executive function from the legislative function of county government. "The council's primary duty is to adopt a budget and establish county policy. The county executive . . . is responsible for general administration and operation of the county." (<http://www.mrsc.org/Subjects/Governance/locgov12.aspx>.) As a charter or home rule government, the County may legislate on issues where the state legislature has not preempted local legislation. *Id.*

¹⁵ <http://www.ofm.wa.gov/pop/coseries/c1960to2006.xls>.

¹⁶ Dunphy, Steven, "Seattle's Long Road Back" (Seattle Times, August 18, 2002) (<http://seattletimes.nwsourc.com/news/business/washecon2002/seattle.html>).

¹⁷ Boeing's Washington state employment as of 31 December 2006 was 68,170. (http://www.boeing.com/employment/employment_table_2006.html)

¹⁸ Wolcott, "Blueprint' for future", Snohomish County Business Journal (January 2005) (<http://www.snohomishcountybusinessjournal.com/archive/jan05/economicblueprint-jan05.htm>)

¹⁹ RCW Chap. 36.70A (1990).

²⁰ When used in this document, "passenger air service" means "scheduled passenger air service."

Airways and Eastern. Other large, long time air carriers²¹ have been in and out of bankruptcy, such as Delta, United, and Continental. Low cost airlines started up, including JetBlue and Frontier. Southwest Airlines moved out of its home triangle market of Dallas-Love/Houston-Hobby/Austin and is now a national, low cost carrier.²²

The 1980s saw many disputes between airports and the communities surrounding them over noise, congestion, and other impacts. Congress pre-empted local governments' assertion of control over noise, type, and frequency of passenger air service by passing the Airport Noise and Capacity Act of 1990 ("ANCA"). ANCA required air carriers to phase out of older, noisier "stage 2" aircraft in favor of newer, quieter "stage 3" aircraft. ANCA prohibited local operators and owners from discriminating against passenger air service carriers based on noise, type, or frequency.

Scheduled passenger air service at Paine Field came and went in fits and starts. San Juan Airlines provided scheduled passenger air service to Portland from November 29, 1987 through October 1988 in fourteen seat Beech C99 turboprop aircraft. San Juan also provided service to Vancouver, B.C. for a few months before closing its Paine Field station in November 1988.

Horizon Airlines²³ evaluated scheduled passenger air service from Paine Field to Portland service in 1997 with thirty-seven passenger DeHavilland Dash 8-200 turboprops. Horizon eventually purchased seventy seat regional jets and seventy-four seat Dash 8 400 turboprops to meet growing passenger demands at Sea-Tac and did not provide scheduled passenger air service from Paine Field.

The cities surrounding and affected by Paine Field have changed, too. Everett almost doubled from 56,413 residents in 1980²⁴ to now more than 100,000 residents. Mukilteo grew from 1,426 residents in 1980²⁵ to almost 20,000 residents²⁶ and saw the development of Harbour Point with a top level golf course and many additional residences.

MILESTONES SINCE 1978

Additional Runaway

Runway 16L/34R (approximately three thousand feet long and seventy-five feet wide) was constructed in the late 1980s.²⁷ It is used by smaller general aviation aircraft and has single wheel pavement strength of twelve thousand five hundred pounds.

²¹ Now referred to as "legacy" airlines.

²² See, e.g., Kahn, Alfred E., "Airline Deregulation", The Concise Encyclopedia of Economics. Liberty Fund, Inc. Ed. David R. Henderson. Library of Economics and Liberty. (<http://www.econlib.org/LIBRARY/Enc/AirlineDeregulation.html>).

²³ Alaska Airlines operated their aircraft maintenance base at Paine Field in the late 1940s and 50's but there is no indication that they offered passenger service from Paine Field.

²⁴ http://www.everettchamber.com/bus_population.jsp

²⁵ <http://seattlepi.nwsourc.com/dayart/20010327/I-5census2000.pdf>

²⁶ See note 10, *supra*.

²⁷ Projects 3-53-0028-06 (1985); 3-53-0028-07 (1986); 3-53-0028-08 (1986). Paine Field Airport Master Plan Noise Study Update, Volume One Master Plan, p. A.7 (1995).

Airport Master Planning

Paine Field prepared master plan and noise study updates in 1995 and 2002, including airport layout plans. These updates were approved by County Council.²⁸ This master planning process included community involvement and noise studies. Although no legal requirement compelled Snohomish County to prepare master plan and noise study updates, Snohomish County could not successfully compete for federal grant money for airport projects without it. Forecasting operations, including passenger air service, is a required element of the airport master planning process. Adoption of the regional service low range for passenger air service in 2002 was neither a prediction nor an expression of hope or preference by the County for scheduled passenger air service. It was merely a necessary element of the master planning process.

Other Changes

Future of Flight, a museum dedicated to the future of aeronautical technology, opened in late 2004 at Paine Field. Boeing's Tour Center relocated to the Future of Flight. Approximately 160,000 guests visited the Future of Flight in 2006. The Future of Flight has become a successful event venue, hosting the initial visit to the U.S. by People's Republic of China President Hu Jin-tao in 2006.

The Washington State Department of Transportation completed \$16 million in the second phase of improvements to SR 525, also known as the Mukilteo Speedway. WSDOT widened State Route 525, commonly called the Mukilteo Speedway, between 132nd Street Southwest and Paine Field Boulevard in the City of Mukilteo in Snohomish County. New turn lanes, transit pullouts, sidewalks, and a center median were added. Traffic signals were rebuilt and equipment to allow real-time monitoring was installed. Installation of underground storm water treatment facilities improved water quality and prevented local stream flooding.²⁹

Improvements were also constructed to Interstate 5 and to State Route 526 (colloquially known as the Boeing Freeway).

Boeing changed substantially during this time. Boeing added the 767, 777 and now the 787 at the Everett plant. Boeing's order book for twin-aisle frames continues to grow and is likely to continue to dominate the market in the near future.

2002 Economic Stimulus Action Plan

A national economic downturn that began in 2000 was exacerbated by the terrorist attack on New York City on September 11, 2001. The Snohomish County unemployment rate reached 7.5% in June 2002—more than double the 3.1% unemployment rate of 1998. The business community urged the County Council to respond. The Snohomish County Council unanimously passed a resolution on May 15, 2002 to form an Economic Stimulus Task Force. The Task Force consisted of county elected leaders and department heads. Its purpose was to find ways the County could quickly assist in stimulating the local economy. The Action Plan was short term, tactical and not intended to be a long range economic plan.

²⁸ See, e.g., Motion 95-219 (July 19, 1995).

²⁹ <http://www.wsdot.wa.gov/Projects/Highlights/2004/sr525sr99tosr526phase2.htm>

Under the category of Capital Improvement Projects (early starts and pump priming), Action Plan item III(C)(2) mandated an exploration of the potential “regional air service market at Paine Field.” This action item was described as:

Assemble group of stakeholders to serve as advisory committee. Develop market study to validate and refine Master Plan forecast of regional demand. Consult with regional airlines to ascertain readiness of area to support regional operations. Initiate survey of local business to support a regional airline survey. Define Master Plan concepts for terminal requirements. Develop plans and budget estimates for terminal facilities. Investigate security requirements and costs necessary for regional passenger service.

Paine Field staff began work. Mead & Hunt were engaged to prepare a market study. The study was completed in 2004 and available on the Paine Field website.

This work concerned residents living near Paine Field. Many residents feel strongly that the County’s adoption of the “General Aviation” role for Paine Field in 1978 and the County Council’s actions regarding the MRD Document since then constituted a social compact that excluded the recruitment, solicitation, or encouragement of scheduled air passenger service at Paine Field.

UPDATING THE MRD DOCUMENTS

In 2004, the County released a marketing study commissioned pursuant to the 2002 Economic Stimulus Action Plan. This study by Mead & Hunt stoked concerns by south County residents that the County would reverse course and encourage scheduled passenger air service.³⁰ Several hundred people and County Executive Aaron Reardon attended a meeting of Save Our Communities on May 5, 2005 at Olympic View Middle School in Mukilteo.³¹ At that meeting, Executive Reardon promised a review of the MRD Document. “This panel will review and update Paine Field’s current and future role based on more timely studies and relevant data,” Reardon said. “The MRD has not been reviewed in almost 30 years and is outdated. Our citizens deserve certainty and confidence in their future.”³²

Reardon said he formed the review group to study, update and clarify the intent of the MRD agreement. Airline service promoters say they believe updating the MRD means focusing on supporting airline services now that noise issues have been mitigated.³³

County Executive Reardon followed through. He recruited the mayors of Mukilteo (Don Doran) and Everett (Ray Stephanson) as co-chairs of the community panel. A number community leaders supporting and opposing scheduled passenger air service accepted County Executive Aaron Reardon’s invitation to serve on the panel.³⁴ The community panel met a dozen times over a little more than one year and listened to numerous presentations regarding noise, land use, planning, and federal regulation of airports.³⁵ Updates to the MRD Document were agreed,³⁶ though some community panel members felt updating to be unnecessary. These members viewed the MRD Document as being supplanted by later planning processes and resulting documents, including comprehensive plans mandated by the Growth Management Act in the 1990s and the Airport Master Plan. Several felt the fundamental premise of the MRD Document was included in the planning documents, while others of this group felt that MRD Document’s discouragement of scheduled passenger air service was archaic and no longer served the community’s interest.

Some wondered whether the MRD Document is “legal”, i.e., does it violate federal law, assurances made by the County to the federal government in applying for and receiving grants, or the restriction in the real estate deed from the federal government for Paine Field? The nationally-known airport law firm of Kaplan Kirsch Rockwell of Denver, Colorado, saw no such violation:

³⁰ See discussion, *supra*, at page 10.

³¹ http://ci.mukilteo.wa.us/minutes/city_council/2005-05-16m.pdf; http://www.paineairport.com/press_releases/5-6-05%20Exec%20press%20release%20on%20MRD.pdf

³² <http://www.sscchamber.org/index.php?page=news&display=article&key=589>

³³ Stephens, Terry, “Paine Field Airline Debate Focuses on FAA Protection Laws,” Pacific Northwest Aviation and Business Journal, July 2006 (<http://www.airportjournals.com/display.cfm/Northwest/0607041>).

³⁴ See Kaplan Kirsch Rockwell memorandum, *infra*, at page 51.

³⁵ See Meetings, *infra*, at page 109.

³⁶ See Updated 1978 MRD Document (Legislative Format) and Updated 1979 MRD Document (Legislative Format), *infra*, at pages 32 and 39, respectively.

With this characterization of the MRD Document in mind, we do not find that the MRD Document is inconsistent with federal law or policy. In particular, the MRD Document does not itself constitute a “noise or access” restriction subject to ANCA and Part 161 because it does not limit the operations of Stage 2 or Stage 3 aircraft.

* * *

Further, we do not believe that the MRD Document is preempted under the ADA or violates the County’s grant assurances or deed restrictions. We understand that the MRD Document has not been the subject of any enforcement action against the County and that, to the contrary, the FAA has stated on several occasions that the County is authorized to define the intended role of Paine Field. The FAA has taken issue only with specific actions by the County in reliance on the MRD Document, such as the County’s proposed approach to airport master planning. The MRD Document, standing alone, would not present the basis for a valid cause of action that could be used in administrative or judicial litigation against the County. Again, it is only subsequent action by the County that might be such a cause of action.

Kaplan Kirsch Rockwell memorandum, *infra*, pp. 70-71.

Two essential, important and fundamental lessons were learned during the community panel’s work.

First, the federal Airport Noise and Capacity Act of 1990³⁷ (ANCA) took away local government’s ability to prohibit or limit scheduled passenger air service, with very few exceptions.

Any mandatory prohibition adopted by Snohomish County now or in the future pursuant to the policy directives in the MRD Document likely would be subject to the procedural and substantive requirements of ANCA and Part 161 applicable to restrictions on Stage 3 aircraft. We say likely because the background documents we have reviewed characterize the concern with passenger service as relating to environmental impacts in general and noise specifically. If Snohomish County reasonably could argue that it was motivated by considerations entirely unrelated to noise (e.g., safety, congestion or operational efficiency), there is a remote chance that the restriction would not be subject to ANCA and Part 161. The historical concern with noise itself may be sufficient to trigger ANCA; the FAA might conclude that any other justification offered is mere subterfuge.

Id. The County can not prohibit or limit scheduled passenger service, whether it wants to or not. “It would be immensely challenging for the County to establish that a restriction on passenger service is reasonable and nondiscriminatory.” *Id.* at p. 74. Irrespective of whether the MRD Document intended to prohibit or limit scheduled passenger air service, federal law does not allow a local government like Snohomish County to do so.

³⁷ 49 U.S.C. §§ 47521- 47533 (1990).

Second, the County is not required to encourage scheduled passenger air service or to subsidize it.

At the most basic level, **the County unquestionably can impose fees on air carriers to recover the County's costs to operate and maintain the airfield and airport.** These costs typically include landing fees, rent for land and terminal space, and fees on fuel dispensed at the airport. **The County also may impose fees on airport users to recover the County's costs to make capital improvements.** All of these fees must be reasonable and nondiscriminatory. Whether imposed to cover operation and maintenance costs or capital improvement costs, the County generally must endeavor to impose fees on airport users in rough proportion to costs attributable to those users.

Id. at p. 76 (emphasis added). While the County may not indirectly prohibit scheduled passenger air service by disproportionate fees and charges, neither must the County provide an airline with facilities for free. Further, mitigation fees can be assessed as a result of environmental review and permitting and possibly for a noise mitigation program. *Id.*

In summary, the community panel process led by County Executive Reardon provided a forum for thoughtful views of citizens and an understanding of three fundamental principles:

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

The MRD Document is neither a talisman that wards away scheduled passenger service, nor is it relic consigned to the dustbin of County history. It expresses a policy preferring general aviation and industrial use over scheduled passenger air service. This policy preference is consistent with federal law, grant assurances and deed restrictions.

Board of County Commissioners
SNOHOMISH COUNTY, WASHINGTON

ROLE FOR
DEVELOPMENT OF
PAINE FIELD SELECTED

W H E R E A S, Findings and Recommendation of the Snohomish County PLANNING COMMISSION have been filed with the Board of Snohomish County Commissioners in the matter of the SELECTION OF AN AIRPORT ROLE FOR PAINE FIELD, and,

W H E R E A S, the Board did on the 29th day of March, 1978, set this 11th day of April, 1978, at the hour of 10:00 o'clock a.m., as the time for considering the Findings of Fact and the Recommendation of the Planning Commission concerning the role for Paine Field, and,

W H E R E A S, at such public meeting held this date, the Board of County Commissioners carefully considered the recommendation of the Planning Commission, the Airport Commission and all written material received thus far, and,

W H E R E A S, the Planning Commission, after two public hearings at which several hours of citizen input and testimony were received, recommended to this Board that the Commissioners adopt a role for Paine Field to be entitled "General Aviation" (combination of Revised General Aviation and the Do Nothing role), and,

W H E R E A S, after having received and considered all documents and testimony submitted to this Board by the Planning Commission, Airport Commission and others, it appears to this Board that the recommendation of the Planning Commission should be followed with two modifications and two additional conditions being made by this Board of Commissioners:

1. There is widespread and well founded public concern in the Paine Field Study Area about the possible expansion of airport operations and/or facilities at Paine Field.
2. The Environmental Analysis Summary, supplemental technical evidence, and statements from the public indicate that any expansion of Paine Field, if not strictly controlled, could impose substantially increased adverse environmental impacts on a large number of existing and future Paine Field area residents.
3. There is a demand for improved and expanded light aircraft general aviation facilities in the Seattle-Tacoma-Everett region.
4. There is no clear justification for providing additional large transport air carrier or air cargo facilities at Paine Field, or at any airport in the region other than SEA-TAC, during the foreseeable future.
5. The Paine Field Study Area has been designated by elected officials of Snohomish County and the affected cities as a major urban growth center. Major public and private investment, including development of an extensive system of public utilities and educational facilities, has already occurred to implement this growth policy. Furthermore, urbanization of the study area is continuing at a rapid pace.

6. Failure to reduce the adverse impacts of airport operations on the community and control negative residential growth impact on airport activities will result in unnecessary social, environmental and economic hardship for the community, while jeopardizing legally and financially the County's substantial investment in airport facilities at Paine Field.
7. Future use and development of Paine Field must recognize and protect the rights of The Boeing Company to use these facilities as provided for in their long-term contract with the County.
8. The needs and interests of the municipalities surrounding Paine Field, including Everett, Mukilteo, Lynnwood and Edmonds, must be given full consideration by the County in determining the future use of this facility.
9. A wide assortment of noise abatement measures are available which can and should be effectively used at Paine Field to substantially reduce the adverse impact of present and future aircraft noise on the surrounding community.
10. Testimony by pilots based at Paine Field and affected residents of the community has raised serious doubt about the accuracy of the aircraft noise contour forecasts generated for this study and hence supports enactment of a major continuous noise monitoring program at Paine Field.
11. Citizen confidence in the commitment of the Airport staff, Airport Commission, and elected County officials to aggressively pursue programs to make the airport and surrounding community compatible must be created to avoid long-term major confrontations that will poorly serve the airport, County and community.
12. Serious unanswered questions have been raised by professional aviators based at Paine Field regarding location of a proposed new 3,100 foot light aircraft, general aviation, runway on the Bomarc site. Substantial doubts exist concerning:
 - A. Development of a safe flight pattern to avoid a potentially dangerous intersection of aircraft using the new runway and those using runway 11-29;
 - B. The provision of adequate fixed based operator flight services to aircraft using the Bomarc runway;
 - C. Provision of eventual taxiway access to the Bomarc runway from the main airport;
 - D. The acceptability of this runway for student pilot training stemming from such factors as:
 - (1) The increased crosswind conditions caused by the 6° canting of this runway away from the prevailing winds;
 - (2) The need for a second air traffic control radio frequency; and
 - (3) The need for a runway longer than 3,100 feet.

In light of these findings and our knowledge gained from many hours of testimony and review of evidence, we recommend that a redefined aviation role for Paine Field be selected which would achieve some of the primary objectives of the Revised General Aviation role, while also protecting the interests of the Paine Field residential community, the airport, and the County by incorporating key elements of the Do Nothing role. We entitle this new role "General Aviation."

The principal aviation objectives of the General Aviation role would be to retain and enhance light aircraft general aviation as the dominant aeronautical activity at Paine Field. This role would provide for a reasonable amount of airport facility expansion and modernization to accommodate the expected growth of this activity. Future aircraft operations would be keyed to the substantial growth rate projected in the Do Nothing role. This approach would impose strict control on any aviation activity with potential for adverse environmental impact.

In the event further analysis justifies its need, the principal new aviation facility provided under the General Aviation role could be a new light aircraft utility runway 3,100 feet in length. This new runway would be located west of Airport Road, rather than on the Bomarc property. The preferred site would be located approximately 3,300 feet east of the existing main north/south runway 16-34.

Expansion or improvements of other airport facilities primarily for light aircraft general aviation use would also be permitted under this role, subject to adequate mitigation of adverse environmental impacts. New or improved facilities would include new T-hangars, tie-down space, taxiways, navigational aids, and other necessary ground support facilities for light aircraft aviation. This role does not propose extension of the main north/south runway 16-34 or other existing runways.

Other aviation activities which would be encouraged to continue operation and expansion at Paine Field include: aircraft related industries, business and corporate aviation, public service aviation and air taxi service. Reasonable expansion of these activities would be permitted, provided that they do not interfere with light aircraft general aviation or The Boeing Company activities. Expansion of these activities would also be contingent upon their ability to satisfactorily mitigate potential adverse impacts on the community.

Existing aviation activities at Paine Field which would be strongly discouraged from expanding because of their incompatibility with the airport's primary aviation role, as well as their unavoidable adverse impact on the surrounding community, include supplemental/charter air passenger service, large transport crew training operations, air cargo aviation, and military aviation.

A vigorous noise abatement program embodying the elements described in the Planning Department's position statement should be included as an integral part of this redefined General Aviation role. We earnestly recommend to the Board of County Commissioners that steps be taken to begin implementation of this program before the next phase of the study is permitted to begin. It is our firm belief that all affected sectors of the airport community should be directly involved in developing and, as possible, implementing the detailed elements of a noise abatement program. The program should include at least the following:

1. Staffing of an Airport Noise Mitigation Program

- A. The County should engage the services of a professional mediator when needed to work directly with the Paine Field Area community to resolve any differences that may arise between the operation of Paine Field and the citizenry.
- B. The County should form a permanent Paine Field Advisory Council composed of local residents and airport users to provide advice to the County on important airport related issues.

2. Aircraft Noise Source Controls

The following controls or those of similar noise mitigation impact should be implemented:

- A. All newly manufactured aircraft using Paine Field should be required to comply with the most current Federal Aviation Regulation (FAR) Part 36 Aircraft noise emission standards.
- B. Any older transport aircraft should be prohibited from using Paine Field unless such aircraft are modified to meet all FAR Part 36 noise reduction performance standards established for transport aircraft manufactured after December 1, 1973. (This would require them to be retrofitted with new, quieter, refanned jet engines.)

Snohomish County has the authority to require that all aircraft based at Paine Field meet the aforementioned requirements.

3. Airport Operations Controls

- A. All available FAA approved special landing and takeoff noise abatement procedures should be utilized to the maximum extent feasible. Conformance with approved airport flight patterns by all aircraft, including military helicopters, should be strictly enforced.
- B. Aircraft operating restrictions should be put into effect at Paine Field, including limits on operating hours of certain types of aircraft.
- C. Engine maintenance and testing run up operations on airport property should be strictly regulated to conform to applicable state noise regulation requirements. A strict nighttime curfew should be reviewed and updated on a regular basis.
- D. To measure the effectiveness of operations noise abatement controls and to aid in their enforcement, a complete noise monitoring system should be permanently installed and actively monitored. Using data acquired from noise monitoring, aircraft noise contour maps for Paine Field should be reviewed and updated on a regular basis.

- E. The County should negotiate binding agreements with the airlines conducting training flights at Paine Field which will limit their operations to existing levels. Night training flights should be prohibited.

4. Land Use Controls and Land Acquisition

- A. All noise impacted land inside Zone C Noise Exposure Forecast (NEF) 40+ should be converted to an airport-compatible, non-residential land use either by private development or through purchase by the County with a staged acquisition program following FAA guidelines.
- B. Based upon the results of the noise monitoring system, the most severely impacted portions of noise impacted land inside Zone B (NEF 30-40) should be converted to airport-compatible, non-residential land uses wherever consistent with accepted land use planning principles.
- C. The County should require or purchase appropriate aviation easements when granting approval of residential property requests inside Zone B (NEF 30-40).
- D. The County should require that special noise insulation be added to all new residences constructed inside Zone B (NEF 30-40).
- E. The County should pursue efforts to require that disclosure of airport noise impact be included on title reports for all property located in Zone B or Zone C when development or subdivision is proposed.

5. Community Assistance Program

- A. Existing residences located in noise impacted areas with aircraft noise levels of NEF 35-40 should be provided with a guarantee of purchase by the County if so desired by the affected owner.
- B. A County sponsored cost sharing program to purchase noise insulation materials should be offered to the owners of all existing residences in Zone B (NEF 30-40).

6. Control of Military Aircraft Activities at Paine Field

The County should attempt to renegotiate the lease with the U.S. Army Reserve Helicopter unit dated March 22, 1978 for a period of time shorter than the 20 years specified.

In conclusion, we present our findings, which expressly support the selection of the new redefined General Aviation role:

- 1. The General Aviation role will permit reasonable airport expansion to continue at Paine Field.
- 2. The General Aviation role will impose a minimum amount of adverse environmental impact on the Paine Field area community.

3. The General Aviation role will cause the least disruption to existing land use patterns around Paine Field.
4. The General Aviation role will provide the best opportunity to both preserve and expand the existing airport industrial park.
5. The General Aviation role will provide the greatest economic benefits to the County with the least economic and environmental costs.
6. The General Aviation role will best serve the future needs of light aircraft general aviation, the principal aeronautical activity at Paine Field.
7. The General Aviation role will insure that light aircraft general aviation will remain the dominant aeronautical activity at Paine Field for the foreseeable future.
8. The General Aviation role will limit the expansion of aviation activities at Paine Field which are least compatible with its dominant aviation role and which would impose the most severe adverse environmental impacts on the surrounding community.
9. The General Aviation role will provide the County with the best opportunity to successfully implement an aggressive, long-term noise abatement program at Paine Field.
10. The General Aviation role will protect the rights of The Boeing Company to use the airport facilities at Paine Field as outlined in their long-term contract with Snohomish County.

It is further recommended by the Planning Commission that the Paine Field Annual Air Show and other such community sponsored events continue to be permitted at the Snohomish County Airport at Paine Field.

On a motion duly made, seconded and UNANIMOUSLY approved, the Planning Commission further recommends to the Board of County Commissioners of Snohomish County that should at any future date further study be done relative to the Paine Field Community Plan, the body studying said Plan be constituted in such a manner as to involve local citizens, airport users, qualified technical staff and an advisory committee; and be patterned along the lines of the Citizens' Advisory Committee which drafted the Snohomish County Shoreline Master Program.

Board of County Commissioners conditions:

1. Two additional members are to be added to the Airport Commission - one to represent the residents in the immediate area of the airport and the other to represent the Airport pilots.
2. This Paine Field Community Plan shall be subject to periodic review, so once noise levels and patterns are set at an acceptable level, Paine Field may take advantage of technological and operational improvements.

W H E R E A S, it further appears to this Board that:

1. There were no irregularities in the action taken on this matter, and the Hearings by the Planning Commission were conducted fairly and in good faith.
2. The Findings of the Planning Commission are in the best interests of the general welfare of the people of Snohomish County.

N O W, T H E R E F O R E, B E I T R E S O L V E D, that pursuant to the Findings of Fact as set out above, this Board hereby ADOPTS the "GENERAL AVIATION" role for the PAINE FIELD COMMUNITY PLAN.

COPY RECEIVED:

PLANNING _____

AIRPORT _____

EVERETT PLANNING DEPARTMENT _____
(Gary Doughty)

Done in _____ regular _____ Session this _____ 11th _____ day of _____ April _____ 19 78

ATTEST:

HENRY B. WHALEN

County Auditor and Ex-Officio Clerk of the Board

[Signature]
Chairman

Commissioner

By *[Signature]*
Deputy Auditor

Commissioner

Constituting the Board of County Commissioners
of Snohomish County, Washington

CM-9

Board of County Commissioners
SNOHOMISH COUNTY, WASHINGTON

P A I N E F I E L D M E D I A T I O N P A N E L
R E C O M M E N D A T I O N S A D O P T E D

ON MOTION, those certain RECOMMENDATIONS of the PAINE FIELD MEDIATION PANEL dated January 23, 1979, a copy of which is located in Commissioners' Proceedings file of this date, regarding amendments to the ROLE adopted for PAINE FIELD (See Commissioners' Proceedings of April 11, 1978), are hereby ADOPTED and incorporated by reference herein, and further the county has agreed to study all possible alternatives for use of the Bomarc Site.

COPY RECEIVED:

AIRPORT _____

AIRPORT COMMISSION _____

U of W MEDIATORS _____

CITIZEN'S GROUP _____

(Beth Armstrong)

Done in regular Session this 23rd day of January, 1979.

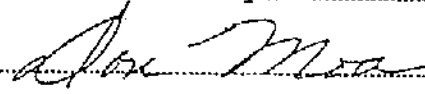
ATTEST:

HENRY B. WHALEN

County Auditor and Ex-Officio Clerk of the Board

By _____

Deputy Auditor



Chairman

Commissioner

Commissioner

Constituting the Board of County Commissioners
of Snohomish County, Washington

PAINÉ FIELD MEDIATION PANEL RECOMMENDATIONS

WHEREAS, the Snohomish County Commission did on April 11, 1978, adopt a role for the development of Paine Field, which called for engaging "the services of a professional mediator to resolve any differences that may arise between the operation of Paine Field and the citizens"; and

WHEREAS, the Snohomish County Commission on July 10, 1978, appointed the Office of Environmental Mediation at the University of Washington to bring together a mediation panel to hold talks; and

WHEREAS, the mediation panel has held such talks to discuss issues and to negotiate specific agreements among the panel members;

NOW THEREFORE BE IT RESOLVED that the Paine Field Mediation Panel recommends the following be adopted by the Snohomish County Commission as an amendment to the role adopted for Paine Field (dated April 11, 1978).

It is recognized that the Snohomish County Airport (Paine Field) is an established public facility and an essential element in the State of Washington's transportation system, and that future options be preserved to enable Paine Field to be modern, efficient and safe. However, great care should be taken by the Board of Snohomish County Commissioners and by the Snohomish County Airport Commission to encourage airport development plans compatible with county-wide land use goals, guidelines and policies with comprehensive zoning.

The development of Paine Field will be predicated on the recognition that it resides within an established community and will be sensitive to the quality of life for which surrounding residents strive. The residents will in turn understand that they live in the influence-area of an established airport.

Both the residential community and the Airport Commission will work together to develop a meaningful system of continued resident, pilot, and business-interest dialogua in the development of the field.

Paine Field will remain light aircraft oriented with the role as defined, "General Aviation", adopted by the Board of Snohomish County Commissioners April 11, 1978, and in compliance with the covenants in deeds and grants of the U.S. Government. Other aviation activities that would be encouraged to continue and expand would be aircraft-related industries, business and corporate aviation, public service aviation, air taxi and commuter service.

In furtherance of these objectives, the following specific actions are recommended:

I. Paine Field Steering Committee and Study Content

A. Paine Field Steering Committee Composition

A Steering Committee shall be created and its members appointed by the Snohomish County Commissioners. The committee should include one representative from the Snohomish County Airport Commission, one representative from the City of Everett, one from the Snohomish County Planning Commission, one pilot, one fixed base operator, and one person from the residential community surrounding Paine Field. The technical work on the study will be supplied by a consultant, airport management, and the County and Municipal Planning Staffs, and such other expertise as may be called upon from time to time. The Steering Committee will function under the general direction of the Snohomish County Airport Commission. It is expected that the pilot, fixed base operator, and resident, and other members of the Committee will keep in close contact with their respective constituencies as the study progresses.

B. Study Direction

The Paine Field Master Plan is currently being revised. During the 1979-1980 period, study will be concentrated on airport impacts. At the completion of this impacts study, a Paine Field Master Plan will be prepared. Development of a master plan is supported that takes as a starting point the principle concern that the impacts on communities surrounding the airport will remain within tolerable levels. These impacts include noise, air pollution, congestion, and air safety. These impacts should be measurable and a performance criteria will be developed by the impact study to be undertaken by Snohomish County. This performance criteria will be understandable, acceptable, and measurable at the airport and in the surrounding community and will be established after baseline readings of present condition airport-generated levels have been determined. The study should provide the definition for the question: what are "reasonable standards?"

Before the completion of the study, the Paine Field Mediation Panel will reconvene to review the findings and ratify and/or recommend modification of the results. Once acceptable performance criteria have been determined, then adopted by the Snohomish County Airport Commission, Snohomish County Commissioners and the Federal Aviation Administration, it is the responsibility of the airport management and the Federal Aviation Administration to implement and direct all further activities and uses so that the standards are maintained.

It is the intent of the mediation panel that mutually acceptable levels be identified such that the Airport Commission may make necessary decisions within clearly stipulated and agreed-to bounds.

II. Noise Abatement

Until completion of the airport impacts study, which will include a noise section, a voluntary noise abatement program should be established and tested at Paine Field. The mediation panel supports the voluntary noise abatement program presently in use. It should be promoted and carried out by the airport management and the Federal Aviation Administration.

There should be a commitment from Paine Field management and the Federal Aviation Administration to actively participate in the implementation of the existing voluntary noise abatement procedures. In addition, it is recommended that noise abatement reminders be posted at the end of each runway and that gas dealers post noise abatement regulations in a visible place. Transient jet aircraft should be issued noise abatement procedures with their fuel receipts. This specific voluntary noise abatement program developed by pilots and Paine Field airport users is attached to this document.

Engine run-up impacts on and off County airport property create noise which causes considerable concern from residents in the surrounding area. Therefore, the Boeing Company should be encouraged to pursue a review of the latest technology on suppression of jet engine run-ups and while doing so, enforce their own voluntary curfew hours (10:00 p.m. to 7:00 a.m.).

III. Control of Military Aircraft Noise

The County, through the Airport Commission, should request by letter that the Commanding Officer of each military unit using Paine Field adopt as published regulations the noise abatement procedures attached to this

document. The affected officers include the Commanding General, 9th Infantry Division, U.S. Army, Ft. Lewis; Adjutant General, Washington National Guard, Camp Murray; Commanding General, U.S. Army Reserves, 124th U.S. Army Reserve Command, Fort Lawton; Commanding Officer, U.S. Naval Air Station, Whidbey Island; Commander, 13th Coast Guard District, Seattle; Base Commander, U.S. Air Force, McChord Air Force Base.

IV. Land Use Compatibility

A. Interim Land Use

While the Paine Field Steering Committee works toward completion of a revised community plan, adjacent off-airport development is occurring that could affect the compatibility between the airport and the communities. In the interim, the County and the airport-impacted municipalities should agree to make land use decisions in a manner that will not limit the options available for insuring future airport and community compatibility.

The County and affected municipalities should impose interim zoning on specific properties which will be directly impacted by the proposed alternative new runways development during the period of the airport impacts study. The elected officials of the affected jurisdictions should adopt these guidelines immediately.

B. Future Land Use

Guidelines for future zoning should be developed according to the following criteria:

1. Within the most heavily noise-impacted zone surrounding the airport, any new or proposed residential development should be prohibited and other uses such as commercial, recreation and agricultural, industrial should be encouraged. The level of noise criteria shall be set after completion of noise studies to be made as soon as reasonably possible.

2. In that area designated Zone 2 on the airport noise footprint, noise abatement construction techniques should be used in developments. Any new or proposed residential developments within this area should be carefully reviewed for noise compatibility, and prospective buyers should be notified by the developer and the seller that they are in a noise-impacted area. Consideration should be given to mitigating any noise impact on schools within this area.

V. Elements for Assessing a Parallel Runway for Paine Field

The Paine Field Mediation Panel supports the addition of another runway for the light aircraft as the need is determined. Location of the proposed new runway will be developed according to the following criteria:

1. It allows light general aviation to be the primary character of Paine Field.
2. It insures a balanced number of operations for light general aviation on both parallel runways.
3. Access to both 16-34 and the new runway should stress minimum taxi time with safe and efficient taxi ways.
4. It minimizes noise impact on the surrounding off-airport properties.
5. Its public benefits should outweigh its costs.
6. It should be able to handle light twin-engine aircraft.
7. It should be compatible with the main runway (16-34) traffic patterns and the prevailing winds.
8. It should be a minimum of 3100 feet in length.

9. The new runway should be designed for aircraft not to exceed a gross weight of 12,500 pounds.
10. All turbine aircraft should use the existing runway, 16-34, except in emergencies.
11. Only 16-34 should be lighted from 11:00 p.m. to 7:00 a.m., except in emergencies.
12. The Airport Commission should establish criteria for location of facilities on Paine Field which will enhance the basic role of general aviation.

Both runways E and B as studied by the airport consultant can meet these criteria.

VI. Use of the Bomarc Site

In keeping with the Snohomish County Resolution for Paine Field of April 11, 1978, it is recommended that the Bomarc Site be used for aeronautical-related purposes and industry, specifics of which will be developed in an airport master plan. Every effort will be made to assist the General Services Administration and the Federal Aviation Administration in working out an amended use for the Bomarc Property so that it can be maintained by Snohomish County.

VII. Public Awareness of Airport Activities and formation of a Paine Field Community Council

Recognizing that Public awareness of airport activities will mutually benefit the airport management and the surrounding residential community, it is recommended that mechanisms be set up to keep the general public aware of airport activities. This would include mailing Airport Commission agendas and meeting minutes to interested community members. The Airport Commission should consider publishing its agenda in advance in a paper of general circulation in the residential area surrounding the airport.

A Paine Field Community Council should be appointed by the Snohomish County Airport Commission with the following composition: Four (4) citizens from residential areas impacted by the airport, two (2) pilots affiliated with Paine Field in some capacity, two (2) fixed base operators at Paine Field, and two (2) representatives from off airport business community.

1. The Community Council should meet at least twice a year in regular session. The Council may schedule as many meetings as it considers to be necessary.

The Airport Commission should cause to be prepared and presented to the Community Council a report of airport activities that should include, but not necessarily be limited to the following elements:

- a. Current operations.
 - b. Short term and long term planning.
 - c. Proposed development that may affect the character of light general aviation.
 - d. Evaluation of current dialogue between the aviation community and residential community.
2. The Council should review, assess and make recommendations to the Airport Commission and/or affected political entity and development with regard to the airport, especially items impacting the spirit and letter of the mediated agreement.
 3. The Council should promote mutual cooperation and understanding between the airport and residential communities.
 4. Secretarial and other office expenses should be funded by the

Snohomish County Commissioners, if legally possible.

VIII. Additional Amendments

BE IT FURTHER RESOLVED that as a result of the Paine Field Mediation Panel deliberations, certain other amendments to the role for the Development of Paine Field adopted April 11, 1978 are recommended:

1) that on the third page, paragraph 5, of said role, the words "provided that they do not interfere with light aircraft general aviation or the Boeing Company activities", and "Expansion of these activities would also be contingent upon their ability to satisfactorily mitigate potential adverse impacts on the community," be deleted.

2) that on the third page, paragraph 6, of said role, the word incompatibility be replaced with inconsistency;

3) that on the fourth page, the sections on Aircraft Noise Source Controls (2-A and B) and on Airport Operation Controls (3-A through E) be deleted;

4) that on the fifth page, the section on Land Use Controls and Land Use Acquisition be amended according to the Snohomish County Planning Commission recommendations dated November 14, 1978.

5) that on the fifth page, section 6 (Control of Military Aircraft Activities at Paine Field) be deleted and replaced with the Paine Field Noise Abatement Procedures developed by airport users and adopted by the Snohomish County Airport Commission on September 13, 1978.

end

UPDATED 1978 MRD DOCUMENT (LEGISLATIVE FORMAT)

ROLE FOR DEVELOPMENT OF PAINE FIELD SELECTED

Updated 14 December 2006

WHEREAS, Findings and Recommendation of the Snohomish County PLANNING COMMISSION (~~have been~~) were filed in 1978 with the Board of Snohomish County Commissioners in the matter of the SELECTION OF AN AIRPORT ROLE FOR PAINE FIELD, and,

WHEREAS, on March 29, 1978 the Board of County Commissioners (~~did on the 29th day of March, 1978~~) set (~~this 11th day of April, 1978, at the hour of~~) 10:00 o'clock a.m. on April 11, 1978 as the time for considering the Findings of Fact and the Recommendation of the Planning Commission concerning the role for Paine Field, and,

WHEREAS, at the public meeting held (~~this date~~) on April 17, 1978, the Board of County Commissioners carefully considered the recommendation of the Planning commission, the Airport Commission and all written material received (~~this far~~) to that date, and,

WHEREAS, the Planning Commission, after two public hearings at which several hours of citizen input and testimony were received, recommended to (~~this~~) the Board of County Commissioners that the Commissioners adopt a role for Paine Field to be entitled "General Aviation" (combination of Revised General Aviation and the Do Nothing role) and,

WHEREAS, after having received and considered all documents and testimony submitted to this Board by the Planning Commission, Airport Commission and others, (~~it appears to this~~) the Board of County Commissioners on April 11, 1978 adopted (~~that~~) the recommendations of the Planning Commission (~~should be followed~~) with two modifications and two additional conditions (~~being made by this Board of Commissioners~~), which recommendations (including modifications and additions) are set forth below:

1. There is widespread and well founded public concern in the Paine Field Study Area about the possible expansion of airport operations and/or facilities at Paine Field.
2. The Environmental Analysis Summary, supplemental technical evidence, and statements from the public indicate that any expansion of Paine Field, if not strictly controlled, could impose substantially increased adverse environmental impacts on a large number of existing and future Paine Field area residents,
3. There is a demand for improved and expanded light aircraft general aviation facilities In the Seattle-Tacoma-Everett region.
4. There is no clear justification for providing additional large transport air carrier or air cargo facilities at Paine Field, or at any airport in the region other than SEA-TAC, during the foreseeable future
5. The Paine Field Study Area has been designated by elected officials of Snohomish County and the affected cities as a major urban growth center. Major public and private investment, including development of an extensive system of public utilities, and educational facilities, has already occurred to implement this growth policy. Furthermore, urbanization of the study area is continuing at a rapid pace.

6. Failure to reduce the adverse impacts of airport operations on the community and control negative residential growth impact on airport activities will result in unnecessary social, environmental and economic hardship for the community, while jeopardizing legally and financially the County's substantial investment in airport facilities at Paine Field.
7. Future use and development of Paine Field must recognize and protect the rights of The Boeing Company to use these facilities as provided for in their long-term contract with the County.
8. The needs and interests of the municipalities surrounding Paine Field, including, but not limited to, Everett, Mukilteo, Lynnwood and Edmonds, and municipalities such as Mountlake Terrace that are in existing and future flight paths must be given full consideration by the County in determining the future use of this facility.
- 8A. The compatibility with the Washington State Growth Management Act must be given full consideration by the County in determining the future use of this facility.
- 8B. The compatibility of surrounding cities' comprehensive plans and the County's comprehensive plan must be given full consideration by the County in determining the future use of this facility.
- 8C. The Airport's role should be consistent with the federal Airport Noise and Capacity Act of 1990 49 U.S.C. §§ 47521 – 47533 (1990).
9. A wide assortment of noise abatement measures are available which can and should be effectively used at Paine Field to substantially reduce the adverse impact of present and future aircraft noise on the surrounding community.
10. Testimony by pilots based at Paine Field and affected residents of the community has raised serious doubt about the accuracy of the aircraft noise contour forecasts generated for this study and hence supports enactment of a major continuous noise monitoring program at Paine Field.
11. Citizen confidence in the commitment of the Airport staff (~~(, Airport Commission,)~~) and elected County officials to aggressively pursue programs to make the airport and surrounding community compatible must be created to avoid long term major confrontations that will poorly serve the airport, County and community.
- ~~((12. Serious unanswered questions have been raised by professional aviators based at Paint Field regarding location of a proposed new 3,100 foot light aircraft, general aviation, and runway on the Bomarc site. Substantial doubts exist concerning:

 - A. ~~Development of a safe flight pattern to avoid a potentially dangerous intersection of aircraft using the new runway and those using runway~~
11—29
 - B. ~~The provision of adequate fixed based operator flight services to aircraft using the Bomarc runway~~
 - C. ~~Provision of eventual taxiway access to the Bomarc runway from the main airport~~
 - D. ~~The acceptability of this runway for student pilot training stemming from, such factors as:~~~~

- (1) — ~~The increased crosswind conditions caused by the 61 canting of this runway away from the prevailing winds;~~
- (2) — ~~The need for a second air traffic control radio frequency; and~~
- (3) — ~~The need for a runway longer than 3,100 feet.))~~

WHEREAS, the surrounding communities have been developed with the understanding of the General Aviation role as outlined in the 1978/1979 MRD.

WHEREAS, the County through its planning process supported that role and believes that the surrounding communities should continue to enjoy the minimized noise, environmental (e.g. noise and air quality and minimized traffic impacts) that the General Aviation role has provided.

WHEREAS, Snohomish County Council reaffirmed the MRD Document in the following actions:

- a) Motion 89-059 dated February 21, 1989 that reaffirmed the 1978 MRD "General Aviation role" and rejected allowing freight, even with strict noise controls;
- b) Joint Resolution 92-010 of the County Council and the County Executive dated March 18, 1992 reaffirmed the MRD Document and rejected a Puget Sound Regional Council flight plan projects draft report to consider major commercial airline service at Paine Field or Arlington;
- c) Joint Resolution 94-013 dated September 21, 1994 reaffirmed the County's commitment to the existing role of Paine Field and discouraged the Puget Sound Regional Council from including Paine Field from the commercial airline sites; and
- d) Motion 01-255 in 2001 that adopted the regional low forecast because, "it is most consistent with the Master plan and finds that it is most consistent with existing County policy stated in the 1978/1979 MRD. The Council reaffirms the General Aviation Role's objective to retain and enhance light aircraft general aviation as the dominant aeronautical activity at Paine Field while encouraging the continuation and expansion of aircraft related industries, business and corporate aviation, public service aviation, air taxi and commuter service and strongly discouraging expansion beyond the 1978 levels of supplemental/charter air passenger service * * *, large transport crew training operations, air cargo aviation and military aviation while remaining compliant with covenants in deeds and grants of the US government."

GENERAL AVIATION ROLE

In light of these findings and ~~((our))~~ knowledge gained from many hours of testimony and review of evidence, ~~((we recommend that))~~ the Board of County Commissioners selected a redefined aviation role for Paine Field ~~((be selected which))~~ recommended by the Planning Commission that would achieve some of the primary objectives of the Revised General Aviation role considered by the Planning Commission, while also protecting the interests of the Paine Field residential community, the airport, and the County by incorporating key elements of the Do Nothing role ~~((which was also considered by the Planning Commission))~~. ~~((We entitle))~~ For the purposes of this document, this new role is called, "General Aviation."

The principal aviation objectives of the General Aviation role would be to retain and, enhance

light aircraft general aviation as the dominant aeronautical activity at Paine Field. This role would provide for a reasonable amount of airport facility expansion and modernization to accommodate the expected growth of this activity. Future aircraft operations would be keyed to the substantial growth rate projected in the Do Nothing role. This approach would impose strict control on any aviation activity with potential for adverse environmental impact.

~~((In the event further analysis justifies its need, the principal new aviation facility provided under the General Aviation role could be a new light aircraft utility runway 3,100 feet in length. This new runway would be located west of Airport Road, rather than on the Bomarc property. The preferred site would be located approximately 3,300 feet east of the existing main north/south runway 16-34.))~~

Expansion or improvements or other airport facilities primarily for light aircraft general aviation use would also be permitted under this role, subject to adequate mitigation of adverse environmental impacts. New or improved facilities would include new T- hangars, tie-down space, taxiways, navigational aids, and other necessary ground support facilities for light aircraft aviation. This role does not propose extension of the main north/south runway 16-34 or other existing runways.

Other aviation activities which would be encouraged to continue operation and expansion at Paine Field include, aircraft related industries, business and corporate aviation, public service aviation such as civilian government and emergency services (air ambulance, search and rescue, etc.), and air taxi and commuter service. Reasonable expansion of these activities would be permitted ~~((, provided they do not interfere with light aircraft general aviation or The Boeing Company activities. Expansion of these activities would also be contingent upon their ability to satisfactorily mitigate potential adverse impacts on the community))~~.

Existing aviation activities at Paine Field which would be strongly discouraged from expanding because of their inconsistency with the airport's primary aviation role as well as their unavoidable adverse impact on the surrounding community, include supplemental/charter air passenger service, large transport crew training operations, air cargo aviation and military aviation.

A vigorous, noise abatement program embodying the elements described in the Planning Department's position statement should be included as an integral part of this redefined General Aviation role. ~~((We earnestly recommend to the Board of County Commissioners that steps be taken to begin implementation of this program before the next phase of study is permitted to begin. It is our firm belief that))~~ All affected sectors of the airport community should be directly involved in developing and, as possible, implementing the detailed elements of a noise abatement program. Paine Field presently has noise abatement procedures. These procedures should be reviewed and updated with each Airport Master Plan update and at any other time review would be appropriate, such as a Part 150 noise study or update or a substantial change from forecasted operations.

1. Staffing of an Airport Noise Mitigation Program

- A. The County should engage the services of a professional mediator when needed to work directly with the Paine Field Area community to resolve any differences that may arise between the operations of Paine Field and the citizenry.
- B. The County should form a permanent Paine Field Advisory Council composed of local residents and airport users to provide advice to the County on important airport related issues.

[The following sections 2, 3 and 4 were deleted by the County Council's adoption of the 1979 MRD Document.]

~~(2. Aircraft Noise Source Controls~~

~~The following controls or those of similar raise mitigation impact should be implemented:~~

- ~~A. All newly manufactured aircraft using Paine Field should be required to comply with the most current Federal Aviation Regulation (FAR) Part 36 Aircraft noise emission standards~~
- ~~B. Any older transport aircraft should be prohibited from using Paine Field unless such aircraft are modified to meet all FAR Part 35 noise reduction performance standards established for transport aircraft manufactured after December 1, 1973. (This would require them to be retrofitted with flew, quieter refanned jet engines.)~~

~~Snohomish County has the authority to require that all aircraft based at Paine Field meet the aforementioned requirements.~~

~~3. Airport Operations Controls~~

- ~~A. All available FAA approved special landing and takeoff noise abatement procedures' should be utilized to the maximum extent feasible. Conformance with approved airport flight patterns by all aircraft, including military helicopters should be strictly enforced.~~
- ~~B. Aircraft operating restrictions should be put into effect at Paine Field, including limits on operating hours of certain types of aircraft.~~
- ~~C. Engine maintenance and testing run up operations on airport property should be strictly regulated to conform to applicable state noise regulation requirements. A strict nighttime curfew should be reviewed and updated on a regular basis.~~
- ~~D. To measure the effectiveness of operations noise abatement controls and to aid in their enforcement, a complete noise monitoring system should be permanently installed and actively monitored. Using data acquired from noise monitoring, aircraft noise contour maps for Paine Field should be reviewed and updated on a regular basis.~~
- ~~E. The County should negotiate binding agreement with the airlines conducting training flights at Paine Field which will limit their operations to existing levels. Night training flights should be prohibited.~~

~~4. Land Use Control and Land Acquisition~~

- ~~A. All noise impacted land Inside Zone C Noise Exposure Forecast (NEF) 40+ should be converted to an airport-compatible, non-residential land use either by private development or through purchase by the County with a staged acquisition program following FAA guidelines.~~
- ~~B. Based upon the results of the noise monitoring system, the most severely impacted portions of noise impacted land inside Zone B (NEF 30-40) should be converted to airport-compatible, non-residential land uses whatever consistent with accepted land use planning principle.~~
- ~~C. The County should require or purchase appropriate aviation easements when granting approval of residential property requests in Zone B (NEF 30-40).~~

- ~~D. The county should require that special noise insulation be added to all new residential construction inside Zone B (NEF 30-40)~~
- ~~E. The County should pursue efforts to require that disclosure of airport noise impact included on title reports for all property located in Zone B or Zone C when development or subdivision proposed.)~~

~~((5))~~2. County Assistance Program

- A. Existing residences located in noise impacted areas with aircraft noise levels of NEF 35-40 should be provided with a guarantee of purchase by the County if so desired by the affected owner.
- B. A County sponsored cost sharing program to purchase noise insulation materials should be offered to the owners of all existing residence, in Zone B (NEF 30-40)

[The following section 6 was deleted by the County Council's adoption of the 1979 MRD Document.]

~~((6. Control of Military Aircraft Activities at Paine Field~~

~~The County should attempt to renegotiate the lease with the U.S. Army Reserve Helicopter unit dated March 22, 1978 for a period of time shorter than the 20 years specified.)~~

In conclusion the County Board of Commissioners concluded in 1978 that the following ~~((we present our))~~ findings ~~((, which))~~ expressly support the selection of new redefined General Aviation role:

1. The General Aviation role will permit reasonable airport expansion to continue at Paine Field.
2. The General Aviation role will impose a minimum amount of adverse environmental impact on the Paine Field area community.
3. The General Aviation role will cause the least disruption to existing and use patterns around Paine Field.
4. The General Aviation role will provide the best opportunity to both preserve and expand the existing airport industrial park.
5. The General Aviation role will provide the greatest economic benefits to he County with the least economic and environmental costs
6. The General Aviation role will best serve the future needs or light aircraft general aviation, the principal aeronautical activity at Paine Field
7. The General Aviation role will insure that light aircraft general aviation will remain the dominant aeronautical activity at Paine Field for the foreseeable future.
8. The General Aviation Role will limit the expansion of aviation activities at Paine Field which are least compatible with its dominant aviation role and which would impose the most adverse environmental impacts on be surrounding community.
9. The General Aviation role will provide the County with the best opportunity to successfully implement an aggressive, long-term noise abatement program at Paine Field.
10. The General Aviation role will protect the rights of The Boeing Company to use

the airport facilities at Paine Field as outlined in their long term contract with Snohomish County.

~~((It is further recommended by the Planning Commission that the Paine Field Annual Air Show and other))~~ such Community sponsored events should continue to be permitted at the Snohomish County Airport at Paine Field.

On a motion duly made, seconded and UNANIMOUSLY approved, the Planning Commission further recommends to the Board of County Commissioners of Snohomish County that should at any future date further study be done relative to the Airport Master Plan, the body studying said Plan be constituted in such manner as to involve local citizens, including members of the communities surrounding Paine Field, airport users, qualified technical staff and advisory committee and be patterned along the lines of the Citizens Advisory Committee which drafted the Snohomish County Shoreline Master Program.

Board of County Commissioners conditions:

- ~~((1. Two additional members are to be added to the Airport Commission—one to represent the residents in the immediate area of the airport and the other to represent the Airport pilots.))~~
- ((2)) This Paine Field Community Plan shall be subject to periodic review, so once noise levels and patterns are set at an acceptable level, Paine Field may take advantage of technological and operational improvements.

WHEREAS, it further appears to this Board that:

- ~~((1. There were no irregularities in the action taken on this matter, and the Hearings by the Planning Commission were conducted fairly and in good faith.))~~
- ((2.) The Findings or the Planning Commission are in the best interests of the general welfare of the people of Snohomish County.

UPDATED 1979 MRD DOCUMENT (LEGISLATIVE FORMAT)

January 23, 1979 (Updated 14 December 2006)

PAINE FIELD MEDIATION PANEL RECOMMENDATIONS

~~((WHEREAS, the Snohomish County Commission did on April 11, 1978, adopt a role for the development of Paine Field, which called for engaging "the services of a professional mediator to resolve any differences that may arise between the operation of Paine Field and the citizens"; and~~

~~WHEREAS, the Snohomish County Commission on July 10, 1978, appointed the Office of Environmental Mediation at the University of Washington to bring together a mediation panel to hold talks; and~~

~~WHEREAS, the mediation panel has held such talks to discuss issues and to negotiate specific agreements among the panel members;~~

~~NOW THEREFORE BE IT RESOLVED that the Paine Field Mediation Panel recommends the following be adopted by the Snohomish County Commission as an amendment to the role adopted for Paine Field (dated April 11, 1978).))~~

It is recognized that the Snohomish County Airport (Paine Field) is an established public facility and an essential element in the State of Washington's transportation system, and that future options be preserved to enable Paine Field to be modern, efficient and safe. However, great care should be taken by the ~~((Board of Snohomish))~~ County ~~((Commissioners and by the Snohomish County Airport Commission))~~ to encourage airport development plans compatible with county-wide land use goals, guidelines and policies with comprehensive zoning.

The development of Paine Field will be predicated on the recognition that it resides within an established community and will be sensitive to the quality of life for which surrounding residents strive. The residents will in turn understand that they live in the influence area of an established airport.

Both the residential community and the Airport Commission will work together to develop a meaningful system of continued resident, pilot, and business-interest dialogue in the development of the field.

Paine Field will remain light aircraft oriented with the role as defined, "General Aviation", adopted by the Board of Snohomish County Commissioners. April 11, 1978, and in compliance with the covenants in deeds and grants of the U.S. Government. Other aviation activities that would be encouraged to continue and expand would be aircraft-related industries, business and corporate aviation, public service aviation, air taxi and commuter service.

In furtherance of these objectives, the following specific actions are recommended:

~~((I. — Paine Field Steering Committee and Study Content~~

~~A. Paine Field Steering Committee Composition~~

~~A Steering Committee shall be created and its members appointed by the Snohomish County Commissioners. The committee should include one representative from the Snohomish County Airport Commission, one representative from the City of Everett, one from the Snohomish County Planning Commission, one pilot, one fixed base operator, and one person from the residential community surrounding Paine Field. The technical work on the study will be supplied by a consultant, airport management, and the County and Municipal Planning Staffs,~~

and such other expertise as may be called upon from time to time. The Steering Committee will function under the general direction of the Snohomish County Airport Commission. It is expected that the pilot, fixed base operator, and resident, and other members of the Committee will keep in close contact with their respective constituencies as the study progresses.

B. Study Direction

The Paine Field Master Plan is currently being revised. During the 1979-1980 period, study will be concentrated on airport impacts. At the completion of this impacts study, a Paine Field Master Plan will be prepared. Development of a master plan is supported that takes as a starting point the principle concern that the impacts on communities surrounding the airport will remain within tolerable levels. These impacts include noise, air pollution, congestion, and air safety. These impacts should be measurable and a performance criteria will be developed by the impact study to be undertaken by Snohomish County. This performance criteria will be understandable, acceptable, and measurable at the airport and in the surrounding community and will be established after baseline readings of present condition airport-generated levels have been determined. The study should provide the definition for the question: what are "reasonable standards?"

Before the completion of the study, the Paine Field Mediation Panel will reconvene to review the findings and ratify and / or recommend modification of the results. Once acceptable performance criteria have been determined, then adopted by the Snohomish County Airport Commission, Snohomish County Commissioners and the Federal Aviation Administration, it is the responsibility of the airport management and the Federal Aviation Administration to implement and direct all further activities and uses so that the standards are maintained.

It is the intent of the mediation panel that mutually acceptable levels be identified such that the Airport Commission may make necessary decisions within clearly stipulated and agreed-to bounds.))

((H)) Noise Abatement

Until completion of the airport impacts study, which will include a noise section, a voluntary noise abatement program should be established and tested at Paine Field. The mediation panel supports the voluntary noise abatement program presently in use. It should be promoted and carried out by the airport management and the Federal Aviation Administration.

There should be a commitment from Paine Field management and the Federal Aviation Administration to actively participate in the implementation of the existing voluntary noise abatement procedures. In addition, it is recommended that noise abatement reminders be posted at the end- of each runway and that gas dealers post noise abatement regulations in a visible place. Transient jet aircraft should be issued noise abatement procedures with their fuel receipts. This specific voluntary noise abatement program developed by pilots and Paine Field airport users is attached to this document.

Engine run-up impacts on and off County airport property create noise which causes considerable concern from residents in the surrounding area. Therefore, ((the Boeing Company)) all aerospace businesses should be encouraged to pursue a review of the latest technology on suppression of jet engine run-ups and while doing so, enforce their own voluntary curfew hours (10:00 p.m. to 7:00 a.m.).

((III. — Control of Military Aircraft Noise

The County, through the Airport Commission, should request by letter that the Commanding Officer of each military unit using Paine Field adopt as published regulations the noise abatement procedures attached to this document. The affected officers include the Commanding General, 9th Infantry Division, U.S. Army, Ft. Lewis; Adjutant General, Washington National Guard, Camp Murray; Commanding General, U.S. Army Reserves, 124th U.S. Army Reserve Command, Fort Lawton; Commanding Officer, U.S. Naval Air Station, Whidbey Island; Commander, 13th Coast Guard District, Seattle; Base Commander, U.S. Air Force, McChord Air Force Base.)

((IV))II. Land Use Compatibility

((A. Interim Land Use

While the Paine Field Steering Committee works toward completion of a revised community plan, adjacent off-airport development is occurring that could affect the compatibility between the airport and the communities. In the interim, the County and the airport-impacted municipalities should agree to make land use decisions in a manner that will not limit the options available for insuring future airport and community compatibility.)) Land use near the airport should be compatible and consistent with the General Aviation Role of Paine Field, with the comprehensive plans of the County and surrounding communities, and with the Airport Master Plan.

((The County and affected municipalities should impose interim zoning on specific properties which will be directly impacted by the proposed alternative new runways development during the period of the airport impacts study. The elected officials of the affected jurisdictions should adopt these guidelines immediately.

B. Future Land Use

Guidelines for future zoning should be developed according to the following criteria:

1. Within the most heavily noise-impacted zone surrounding the airport, any new or proposed residential development should be prohibited and other uses such as commercial, recreation and agricultural, industrial should be encouraged. The level of noise criteria shall be set after completion of noise studies to be made as soon as reasonably possible.
2. In that area designated Zone 2 on the airport noise foot-print, noise abatement construction techniques should be used in developments. Any new or proposed residential developments within this area should be carefully reviewed for noise compatibility, and prospective buyers should be notified by the developer and the seller that they are in a noise-impacted area. Consideration should be given to mitigating any noise impact on schools within this area.

Elements for Assessing a Parallel Runway for Paine Field

The Paine Field Mediation Panel supports the addition of another runway for the light aircraft as the need is determined. Location of the proposed new runway will be developed according to the following criteria:

1. It allows light general aviation to be the primary character of Paine Field.
2. It insures a balanced number of operations for light general aviation on both parallel runways.

3. ~~Access to both 16-34 and the new runway should stress minimum taxi time with safe and efficient taxi ways.~~
4. ~~It minimizes noise impact on the surrounding off-airport properties.~~
5. ~~Its public benefits should outweigh its costs.~~
6. ~~It should be able to handle light twin-engine aircraft.~~
7. ~~It should be compatible with the main runway (16-34) traffic patterns and the prevailing winds.~~
8. ~~It should be a minimum of 3,100 feet in length.~~
9. ~~The new runway should be designed for aircraft not to exceed a gross weight of 12,500 pounds.~~
10. ~~All turbine aircraft should use the existing runway, 16-34, except in emergencies.~~
11. ~~Only 16-34 should be lighted from 11:00 p.m. to 7:00 a.m., except in emergencies.~~
12. ~~The Airport Commission should establish criteria for location of facilities on Paine Field which will enhance the basic role of general aviation.~~

~~Both runways E and B as studied by the airport consultant can meet these criteria.~~

~~VI. Use of the Bomarc Site~~

~~In keeping with the Snohomish County Resolution for Paine Field of April 11, 1978, it is recommended that the Bomarc Site be used for aeronautical-related purposes and industry, specifics of which will be developed in an airport master plan. Every effort will be made to assist the General Services Administration and the Federal Aviation Administration in working out an amended use for the Bomarc Property so that it can be maintained by Snohomish County.)~~

~~(VII)~~ **III. Public Awareness of Airport Activities and Formation of a Paine Field Community Council**

Recognizing that public awareness of airport activities will mutually benefit the airport management and the surrounding residential community, it is recommended that mechanisms be set up to keep the general public aware of airport activities. This would include mailing Paine Field Community Council ~~((Airport Commission))~~ agendas and meeting minutes to interested community members. The ~~((Airport Commission))~~ Paine Field Community Council should consider publishing its agenda in advance in a paper of general circulation in the residential area surrounding the airport.

A Paine Field Community Council should be appointed by ~~((the))~~ Snohomish County ~~((Airport Commission))~~ with the following composition: Four (4) citizens from residential areas impacted by the airport, two (2) pilots affiliated with Paine Field in some capacity, two (2) fixed base operators at Paine Field, and two (2) representatives from off airport business community.

1. The Community Council should meet at least twice a year in regular session. The Council may schedule as many meetings as it considers to be necessary.

The Airport ~~((Commission))~~ staff should cause to be prepared and presented to the Community Council a report of airport activities that should include, but not necessarily be limited to the following elements:

- a. Current operations.

- b. Short term and long term planning.
 - c. Proposed development that may affect the character of light general aviation.
 - d. Evaluation of current dialogue between the aviation community and residential community.
2. The Community Council should review, assess and make recommendations to the County Council (~~(Airport Commission)~~) and/or affected political entity and development with regard to the airport, especially items impacting the spirit and letter of the mediated agreement.
 3. The Community Council should promote mutual cooperation and understanding between the airport and residential communities.
 4. Secretarial and other office expenses should be funded by the Snohomish County (~~(Commissioners)~~) Council, if legally possible.

((VIII.—Additional Amendments

———~~BE IT FURTHER RESOLVED that as a result of the Paine Field Mediation Panel deliberations, certain other amendments to the role for the Development of Paine Field adopted April 11, 1978 are recommended:~~

1) ~~that on the third page, paragraph 5, of said role, the words "provided that they do not interfere with light aircraft general aviation or the Boeing Company activities", and "Expansion of these activities would also be contingent upon their ability to satisfactorily mitigate potential adverse impacts on the community," be deleted.~~

2) ~~that on the third page, paragraph 6, of said role, the word incompatibility [sic] be replaced with inconsistency [sic];~~

3) ~~that on the fourth page, the sections on Aircraft Noise Source Controls (2-A and B) and on Airport Operation Controls (3-A through E) be deleted;~~

4) ~~that on the fifth page, the section on Land Use Controls and Land Use Acquisition be amended according to the Snohomish County Planning Commission recommendations dated November 14, 1978.~~

5) ~~that on the fifth page, section 6 (Control of Military Aircraft Activities at Paine Field) be deleted and replaced with the Paine Field Noise Abatement Procedures developed by airport users and adopted by the Snohomish County Airport Commission on September 13, 1978.))~~

UPDATED 1978 MRD DOCUMENT

ROLE FOR DEVELOPMENT OF PAINE FIELD SELECTED

Updated 14 December 2006

WHEREAS, Findings and Recommendation of the Snohomish County PLANNING COMMISSION were filed in 1978 with the Board of Snohomish County Commissioners in the matter of the SELECTION OF AN AIRPORT ROLE FOR PAINE FIELD, and,

WHEREAS, on March 29, 1978 the Board of County Commissioners set 10:00 o'clock a.m. on April 11, 1978 as the time for considering the Findings of Fact and the Recommendation of the Planning Commission concerning the role for Paine Field, and,

WHEREAS, at the public meeting held on April 17, 1978, the Board of County Commissioners carefully considered the recommendation of the Planning commission, the Airport Commission and all written material received to that date, and,

WHEREAS, the Planning Commission, after two public hearings at which several hours of citizen input and testimony were received, recommended to the Board of County Commissioners that the Commissioners adopt a role for Paine Field to be entitled "General Aviation" (combination of Revised General Aviation and the Do Nothing role) and,

WHEREAS, after having received and considered all documents and testimony submitted to this Board by the Planning Commission, Airport Commission and others, the Board of County Commissioners on April 11, 1978 adopted the recommendations of the Planning Commission with two modifications and two additional conditions, which recommendations (including modifications and additions) are set forth below:

1. There is widespread and well founded public concern in the Paine Field Study Area about the possible expansion of airport operations and/or facilities at Paine Field.
2. The Environmental Analysis Summary, supplemental technical evidence, and statements from the public indicate that any expansion of Paine Field, if not strictly controlled, could impose substantially increased adverse environmental impacts on a large number of existing and future Paine Field area residents.
3. There is a demand for improved and expanded light aircraft general aviation facilities in the Seattle-Tacoma-Everett region.
4. There is no clear justification for providing additional large transport air carrier or air cargo facilities at Paine Field, or at any airport in the region other than SEA-TAC, during the foreseeable future.
5. The Paine Field Study Area has been designated by elected officials of Snohomish County and the affected cities as a major urban growth center. Major public and private investment, including development of an extensive system of public utilities, and educational facilities, has already occurred to implement this growth policy. Furthermore, urbanization of the study area is continuing at a rapid pace.

6. Failure to reduce the adverse impacts of airport operations on the community and control negative residential growth impact on airport activities will result in unnecessary social, environmental and economic hardship for the community, while jeopardizing legally and financially the County's substantial investment in airport facilities at Paine Field.
7. Future use and development of Paine Field must recognize and protect the rights of The Boeing Company to use these facilities as provided for in their long-term contract with the County.
8. The needs and interests of the municipalities surrounding Paine Field, including, but not limited to, Everett, Mukilteo, Lynnwood and Edmonds, and municipalities such as Mountlake Terrace that are in existing and future flight paths must be given full consideration by the County in determining the future use of this facility.
- 8A. The compatibility with the Washington State Growth Management Act must be given full consideration by the County in determining the future use of this facility.
- 8B. The compatibility of surrounding cities' comprehensive plans and the County's comprehensive plan must be given full consideration by the County in determining the future use of this facility.
- 8C. The Airport's role should be consistent with the federal Airport Noise and Capacity Act of 1990 49 U.S.C. §§ 47521 – 47533 (1990).
9. A wide assortment of noise abatement measures are available which can and should be effectively used at Paine Field to substantially reduce the adverse impact of present and future aircraft noise on the surrounding community.
10. Testimony by pilots based at Paine Field and affected residents of the community has raised serious doubt about the accuracy of the aircraft noise contour forecasts generated for this study and hence supports enactment of a major continuous noise monitoring program at Paine Field.
11. Citizen confidence in the commitment of the Airport staff and elected County officials to aggressively pursue programs to make the airport and surrounding community compatible must be created to avoid long term major confrontations that will poorly serve the airport, County and community.

WHEREAS, the surrounding communities have been developed with the understanding of the General Aviation role as outlined in the 1978/1979 MRD.

WHEREAS, the County through its planning process supported that role and believes that the surrounding communities should continue to enjoy the minimized noise, environmental (e.g. noise and air quality and minimized traffic impacts) that the General Aviation role has provided.

WHEREAS, Snohomish County Council reaffirmed the MRD Document in the following actions:

- a) Motion 89-059 dated February 21, 1989 that reaffirmed the 1978 MRD "General Aviation role" and rejected allowing freight, even with strict noise controls;
- b) Joint Resolution 92-010 of the County Council and the County Executive dated March 18, 1992 reaffirmed the MRD Document and rejected a Puget Sound Regional Council flight plan projects draft report to consider major commercial airline service at Paine Field or Arlington;

- c) Joint Resolution 94-013 dated September 21, 1994 reaffirmed the County's commitment to the existing role of Paine Field and discouraged the Puget Sound Regional Council from including Paine Field from the commercial airline sites; and
- d) Motion 01-255 in 2001 that adopted the regional low forecast because, "it is most consistent with the Master plan and finds that it is most consistent with existing County policy stated in the 1978/1979 MRD. The Council reaffirms the General Aviation Role's objective to retain and enhance light aircraft general aviation as the dominant aeronautical activity at Paine Field while encouraging the continuation and expansion of aircraft related industries, business and corporate aviation, public service aviation, air taxi and commuter service and strongly discouraging expansion beyond the 1978 levels of supplemental/charter air passenger service * * *, large transport crew training operations, air cargo aviation and military aviation while remaining compliant with covenants in deeds and grants of the US government."

GENERAL AVIATION ROLE

In light of these findings and knowledge gained from many hours of testimony and review of evidence, the Board of County Commissioners selected a redefined aviation role for Paine Field recommended by the Planning Commission that would achieve some of the primary objectives of the Revised General Aviation role considered by the Planning Commission, while also protecting the interests of the Paine Field residential community, the airport, and the County by incorporating key elements of the Do Nothing role (which was also considered by the Planning Commission). For the purposes of this document, this new role is called, "General Aviation."

The principal aviation objectives of the General Aviation role would be to retain and, enhance light aircraft general aviation as the dominant aeronautical activity at Paine Field. This role would provide for a reasonable amount of airport facility expansion and modernization to accommodate the expected growth of this activity. Future aircraft operations would be keyed to the substantial growth rate projected in the Do Nothing role. This approach would impose strict control on any aviation activity with potential for adverse environmental impact.

Expansion or improvements or other airport facilities primarily for light aircraft general aviation use would also be permitted under this role, subject to adequate mitigation of adverse environmental impacts. New or improved facilities would include new T- hangars, tie-down space, taxiways, navigational aids, and other necessary ground support facilities for light aircraft aviation. This role does not propose extension of the main north/south runway 16-34 or other existing runways.

Other aviation activities which would be encouraged to continue operation and expansion at Paine Field include, aircraft related industries, business and corporate aviation, public service aviation such as civilian government and emergency services (air ambulance, search and rescue, etc.), and air taxi and commuter service. Reasonable expansion of these activities would be permitted.

Existing aviation activities at Paine Field which would be strongly discouraged from expanding because of their inconsistency with the airport's primary aviation role as well as their unavoidable adverse impact on the surrounding community include, supplemental/charter air passenger service, large transport crew training operations, air cargo aviation and military

aviation.

A vigorous, noise abatement program embodying the elements described in the Planning Department's position statement should be included as an integral part of this redefined General Aviation role. All affected sectors of the airport community should be directly involved in developing and, as possible, implementing the detailed elements of a noise abatement program. Paine Field presently has noise abatement procedures. These procedures should be reviewed and updated with each Airport Master Plan update and at any other time review would be appropriate, such as a Part 150 noise study or update or a substantial change from forecasted operations.

1. Staffing of an Airport Noise Mitigation Program

- A. The County should engage the services of a professional mediator when needed to work directly with the Paine Field Area community to resolve any differences that may arise between the operations of Paine Field and the citizenry.
- B. The County should form a permanent Paine Field Advisory Council composed of local residents and airport users to provide advice to the County on important airport related issues.

2. County Assistance Program

- A. Existing residences located in noise impacted areas with aircraft noise levels of NEF 35-40 should be provided with a guarantee of purchase by the County if so desired by the affected owner.
- B. A County sponsored cost sharing program to purchase noise insulation materials should be offered to the owners of all existing residence, in Zone B (NEF 30-40)

In conclusion the County Board of Commissioners concluded in 1978 that the following findings expressly support the selection of new redefined General Aviation role:

- 1. The General Aviation role will permit reasonable airport expansion to continue at Paine Field.
- 2. The General Aviation role will impose a minimum amount of adverse environmental impact on the Paine Field area community.
- 3. The General Aviation role will cause the least disruption to existing and use patterns around Paine Field.
- 4. The General Aviation role will provide the best opportunity to both preserve and expand the existing airport industrial park.
- 5. The General Aviation role will provide the greatest economic benefits to he County with the least economic and environmental costs
- 6. The General Aviation role will best serve the future needs or light aircraft general aviation, the principal aeronautical activity at Paine Field
- 7. The General Aviation role will insure that light aircraft general aviation will remain the dominant aeronautical activity at Paine Field for the foreseeable future.
- 8. The General Aviation Role will limit the expansion of aviation activities at Paine Field which are least compatible with its dominant aviation role and which would impose the most adverse environmental impacts on be surrounding community.

9. The General Aviation role will provide the County with the best opportunity to successfully implement an aggressive, long-term noise abatement program at Paine Field.
10. The General Aviation role will protect the rights of The Boeing Company to use the airport facilities at Paine Field as outlined in their long term contract with Snohomish County.

Such community sponsored events should continue to be permitted at the Snohomish County Airport at Paine Field.

On a motion duly made, seconded and UNANIMOUSLY approved, the Planning Commission further recommends to the Board of County Commissioners of Snohomish County that should at any future date further study be done relative to the Airport Master Plan, the body studying said Plan be constituted in such manner as to involve local citizens, including members of the communities surrounding Paine Field, airport users, qualified technical staff and advisory committee and be patterned along the lines of the Citizens Advisory Committee which drafted the Snohomish County Shoreline Master Program.

Board of County Commissioners conditions:

This Paine Field Community Plan shall be subject to periodic review, so once noise levels and patterns are set at an acceptable level, Paine Field may take advantage of technological and operational improvements.

WHEREAS, it further appears to this Board that:

The Findings or the Planning Commission are in the best interests of the general welfare of the people of Snohomish County.

UPDATED 1979 MRD DOCUMENT

January 23, 1979 (Updated 14 December 2006)

PAINE FIELD MEDIATION PANEL RECOMMENDATIONS

It is recognized that the Snohomish County Airport (Paine Field) is an established public facility and an essential element in the State of Washington's transportation system, and that future options be preserved to enable Paine Field to be modern, efficient and safe. However, great care should be taken by the County to encourage airport development plans compatible with county-wide land use goals, guidelines and policies with comprehensive zoning.

The development of Paine Field will be predicated on the recognition that it resides within an established community and will be sensitive to the quality of life for which surrounding residents strive. The residents will in turn understand that they live in the influence area of an established airport.

Both the residential community and the Airport Commission will work together to develop a meaningful system of continued resident, pilot, and business-interest dialogue in the development of the field.

Paine Field will remain light aircraft oriented with the role as defined, "General Aviation", adopted by the Board of Snohomish County Commissioners. April 11, 1978, and in compliance with the covenants in deeds and grants of the U.S. Government. Other aviation activities that would be encouraged to continue and expand would be aircraft-related industries, business and corporate aviation, public service aviation, air taxi and commuter service.

In furtherance of these objectives, the following specific actions are recommended:

I. Noise Abatement

Until completion of the airport impacts study, which will include a noise section, a voluntary noise abatement program should be established and tested at Paine Field. The mediation panel supports the voluntary noise abatement program presently in use. It should be promoted and carried out by the airport management and the Federal Aviation Administration.

There should be a commitment from Paine Field management and the Federal Aviation Administration to actively participate in the implementation of the existing voluntary noise abatement procedures. In addition, it is recommended that noise abatement reminders be posted at the end- of each runway and that gas dealers post noise abatement regulations in a visible place. Transient jet aircraft should be issued noise abatement procedures with their fuel receipts. This specific voluntary noise abatement program developed by pilots and Paine Field airport users is attached to this document.

Engine run-up impacts on and off County airport property create noise which causes considerable concern from residents in the surrounding area. Therefore, all aerospace businesses should be encouraged to pursue a review of the latest technology on suppression of jet engine run-ups and while doing so, enforce their own voluntary curfew hours (10:00 p.m. to 7:00 a.m.).

II. Land Use Compatibility

Land use near the airport should be compatible and consistent with the General Aviation Role of Paine Field, with the comprehensive plans of the County and surrounding communities, and with the Airport Master Plan.

III. Public Awareness of Airport Activities and Formation of a Paine Field Community Council

Recognizing that public awareness of airport activities will mutually benefit the airport management and the surrounding residential community, it is recommended that mechanisms be set up to keep the general public aware of airport activities. This would include mailing Paine Field Community Council agendas and meeting minutes to interested community members. The Paine Field Community Council should consider publishing its agenda in advance in a paper of general circulation in the residential area surrounding the airport.

A Paine Field Community Council should be appointed by Snohomish County with the following composition: Four (4) citizens from residential areas impacted by the airport, two (2) pilots affiliated with Paine Field in some capacity, two (2) fixed base operators at Paine Field, and two (2) representatives from off airport business community.

1. The Community Council should meet at least twice a year in regular session. The Council may schedule as many meetings as it considers to be necessary.

The Airport staff should cause to be prepared and presented to the Community Council a report of airport activities that should include, but not necessarily be limited to the following elements:

- a. Current operations.
 - b. Short term and long term planning.
 - c. Proposed development that may affect the character of light general aviation.
 - d. Evaluation of current dialogue between the aviation community and residential community.
2. The Community Council should review, assess and make recommendations to the County Council and/or affected political entity and development with regard to the airport, especially items impacting the spirit and letter of the mediated agreement.
 3. The Community Council should promote mutual cooperation and understanding between the airport and residential communities.
 4. Secretarial and other office expenses should be funded by the Snohomish County Council, if legally possible.



MEMORANDUM

TO: Peter Camp, Executive Director
Office of the County Executive
SNOHOMISH COUNTY, WASHINGTON
FROM: KAPLAN KIRSCH & ROCKWELL LLP
DATE: October 12, 2006
SUBJECT: Questions Presented by MRD Panel on Snohomish County's Legal Authority
Regarding Snohomish County Airport – Paine Field

TABLE OF CONTENTS

I. INTRODUCTION..... 3
II. EXECUTIVE SUMMARY 4
III. BACKGROUND 5
A. Glossary of Key Terms 5
Airport Noise and Capacity Act of 1990 (ANCA)..... 5
Noise or Access Restriction 6
ANCA Grandfather 6
Airline Deregulation Act (ADA) 6
Proprietor Exception 6
Grant Assurances..... 7
Deed Restrictions 7
Airport Operating Certificate..... 7
Federal Preemption 8
Airport Proprietor 8
B. Key Legal Principles 8
1. The FAA’s control over airport proprietors and airport operations derives from several sources, only a few of which authorize direct regulation..... 8

2.	<i>Airport proprietors have authority to decide whether and when to make capital improvements at their airport but have certain obligations to accommodate air carriers desiring to use their airport.</i>	10
3.	<i>A ban on scheduled passenger service, if enacted today, must comply with ANCA, the ADA, grant assurances and deed restrictions.</i>	12
4.	<i>Airport proprietors can impose only reasonable rates and charges on aeronautical users and can use airport revenue only for capital and operating costs of the airport.</i>	15
IV.	DISCUSSION OF QUESTIONS PRESENTED	18
A.	To what extent does current federal law conflict with or supersede the MRD Document? For example, does the Airport Noise and Capacity Act of 1990 conflict with the MRD Document’s statement regarding discouraging certain types of air service? Are there other federal statutes, regulations, court decisions, deed restrictions or grant assurances that conflict with or supersede any part of the MRD Document?	18
B.	Current federal law appears to restrict the ability of a local government airport proprietor and operator to limit air passenger service. To what extent, if any, does federal law allow a local government airport proprietor and operator to limit air passenger service? If so, how and to what extent?	21
C.	Does federal law prevent the County from treating a passenger air carrier like other developers in imposing mitigation fees and recovering other costs associated with new development?	25
D.	Does federal law limit a local government airport proprietor and operator’s efforts to encourage or discourage air passenger service? If so, how and to what extent?	27
E.	Once air passenger service begins at a particular level of service, must the local government airport proprietor and operator allow additional and more air carrier service to any extent requested by any air carrier? May the airport proprietor/operator limit service to a particular level? If so, how and to what extent?	29
F.	What level of scheduled commercial air service, if any, is compatible with a Part 139 certification of Paine Field that would also allow Boeing and Goodrich to continue their activities?.....	31

I. INTRODUCTION

Snohomish County convened the MRD Panel in Spring 2005 to review the status of the Mediated Role Determination, adopted by the Board of County Commissioners in April 1978 and revised in January 1979. On June 15, 2006, the MRD Panel requested a legal opinion on two questions concerning the Mediated Role Determination: (1) What is the current legal status of the Mediated Role Determination? and (2) What is the County's legal authority to encourage or discourage passenger service at Paine Field? At your recommendation, we have divided these questions into six detailed topics:

1. *To what extent does current federal law conflict with or supersede the MRD Document? For example, does the Airport Noise and Capacity Act of 1990 conflict with the MRD Document's statement regarding discouraging certain types of air service? Are there other federal statutes, regulations, court decisions, deed restrictions or grant assurances that conflict with or supersede any part of the MRD Document?*

2. *Current federal law appears to restrict the ability of a local government airport proprietor and operator to limit air passenger service. To what extent, if any, does federal law allow a local government airport proprietor and operator to limit air passenger service? If so, how and to what extent?*

3. *Does federal law prevent the County from treating a passenger air carrier like other developers in imposing mitigation fees and recovering other costs associated with new development?*

4. *Does federal law limit a local government airport proprietor and operator's efforts to encourage or discourage air passenger service? If so, how and to what extent?*

5. *Once air passenger service begins at a particular level of service, must the local government airport proprietor and operator allow additional and more air carrier service to any extent requested by any air carrier? May the airport proprietor/operator limit service to a particular level? If so, how and to what extent?*

6. *What level of scheduled commercial air service, if any, is compatible with a Part 139 certification of Paine Field that would also allow Boeing and Goodrich to continue their activities?*

This memorandum is organized as follows:

- ➔ Section II presents a short summary of our response to the two questions posed by the MRD Panel.

- ➔ Section III presents background information to provide the reader with an understanding of the legal principles and operative statutes and rules that define an airport proprietor's authority to control airports generally and passenger service in particular. Presenting this background information will enable us to answer the six detailed questions more directly and succinctly. Section III has two parts: a short glossary of key statutes and terms and a description of the generally applicable legal principles.¹
- ➔ Section IV is a discussion containing our answers to the six questions presented. Again, this section builds upon, and assumes familiarity with, the information contained in the background section (Section III).

II. EXECUTIVE SUMMARY

An airport proprietor's authority to regulate, control or influence commercial passenger operations is exceedingly complex and not reducible to axioms. While we have not been asked for recommendations on specific actions that the County might take in this area, we hope that this detailed memorandum aids the MRD Panel in better understanding the nature and scope of the County's authority over passenger service.

We have reviewed the MRD Document, airport planning documents and other relevant background material. Based on our review, we concur in the conventional wisdom that the MRD Document does not constitute or impose a mandatory restriction. As many others before us have recognized, the use of the words "encourage" and "discourage" in the MRD Document reveals that the document does not constitute a mandatory restriction on airport access, as generally understood in federal aviation law. Rather, the MRD Document identifies several means by which the County could promote the general aviation role of the Airport, all of which are entirely permissible under federal law.

The operative legal question therefore becomes whether the County is authorized to take additional action to directly or indirectly control passenger operations. We believe that it is important to first understand the substantive and procedural requirements imposed on airport proprietors before considering the legality of various actions that the County might pursue. This memorandum follows this format.

Federal law requires, and Federal Aviation Administration ("FAA") policy promotes, open access to public use airports such as Paine Field. Consequently, it is far easier for the County to encourage passenger service at the Airport than to discourage passenger service. The County could, for example, build a passenger terminal and supporting infrastructure, develop a favorable rate structure for air carriers, and offer discounts and incentives to promote use of the Airport. The principal constraints on encouraging passenger service are the federal requirements on airport rates and charges and the use of airport revenue. These constraints are examined in detail below.

¹ For additional background information on these topics, we are supplying the MRD Panel and you with copies of our publication: *The Guide to Airport Noise Rules and Use Restrictions*.

In light of federal law and FAA policy, discouraging passenger service, or imposing an outright ban, is far more difficult. There is a direct correlation between the severity of the measures the County might impose and the difficulty in implementing such measures. At one end of the spectrum, the County could simply announce a policy against passenger service without further implementation or enforcement of the policy. Such an approach presents no conflicts with any applicable federal requirements and standards. At the other end of the spectrum, the County could impose a mandatory prohibition on all passenger service, which would require compliance with exhaustive procedural and substantive requirements imposed by the Airport Noise and Capacity Act of 1990 and would require FAA review and approval. In between these two extremes, the County could exercise its control over capital improvements and airport rates and charges to discourage passenger service or limit the level of passenger activity. The County also exercises control by virtue of its authority to determine whether to maintain an Airport Operating Certificate that is necessary to accommodate certain passenger operations. This memorandum describes these options, and applicable constraints, in detail.

III. BACKGROUND

A. Glossary of Key Terms

In order to ensure that the MRD Panel is familiar with the legal principles underlying the County's authority and the legal significance of the MRD document, it is useful to review the legal terms and concepts that govern federal regulation and control over airports and airport operations. While the remainder of this memorandum attempts to avoid jargon and abbreviations to the maximum extent, the glossary of terms in this section should help the MRD Panel members operate from a common set of defined terms as they discuss the issues addressed in this memorandum.

Airport Noise and Capacity Act of 1990 (ANCA) –A law codified at 49 U.S.C. §§ 47521 – 47533. Implementing regulations are found at Part 161 of the Federal Aviation Regulations.² ANCA imposed three requirements: (i) all turbojet aircraft weighing more than 75,000 pounds were required to meet “Stage 3” noise levels by January 2000; (ii) an airport proprietor cannot impose a “noise or access” restriction on “Stage 3” aircraft without completing a study and obtaining FAA approval; and (iii) an airport proprietor cannot impose a “noise or access” restriction that affects “Stage 2” aircraft without completing a study and other procedural requirements.³ “Stage 2” and “Stage 3” refer to an aircraft's noise rating; Stage 2 generally can be thought of as older, louder aircraft and Stage 3 are newer, quieter aircraft. Federal regulations provide a complex algorithm for determining whether an aircraft qualifies as Stage 2, 3, or, most recently, Stage 4.⁴

² 14 C.F.R. Part 161.

³ 49 U.S.C. §§ 47524 and 47528. The Act required the FAA to consider how to address restrictions on Stage 2 aircraft weighing less than 75,000 pounds. *Id.* § 47525. The FAA subsequently determined that restrictions affecting any Stage 2 aircraft would be subject to the requirements prescribed by Section 47524(b).

⁴ 14 C.F.R. Part 36.

Noise or Access Restriction – A defined term under Part 161 that includes a broad array of measures that “affect the operations of Stage 2 or Stage 3 aircraft.”⁵ Measures include restrictions based on noise levels, a direct or indirect limit on the number of Stage 2 or Stage 3 operations, a noise budget, a curfew, a rate program that has the effect of controlling noise, and other limits that have the effect of controlling airport noise.⁶ This is recognized to be an expansive definition and capable of capturing many different types of restrictions on aircraft operations.

ANCA Grandfather – A colloquial expression that refers to the provisions of ANCA and Part 161 that recognize the continued validity of a noise or access restriction that was adopted or pending adoption at the time that ANCA was enacted in 1990.⁷ Airport proprietors can continue to enforce such restrictions without complying with ANCA and are authorized to amend such restrictions without complying with ANCA so long as the amendment does not make the measure more restrictive.

Airline Deregulation Act (ADA) – A 1978 federal law that was responsible for fundamentally restructuring the airline industry through deregulation. To guard against state and local governments undermining federal deregulation by imposing local regulation, Congress adopted the following prohibition: “a State, political subdivision of a State, or political authority of at least 2 States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of an air carrier that may provide air transportation under this subpart.”⁸ This law has been broadly interpreted to limit the authority of local governments to regulate most aspects of the operation of air carriers.

Proprietor Exception – Legal principle articulated in several reported decisions and codified in several provisions of the federal aviation statutes recognizing the airport proprietor’s right to take a variety of actions in operating an airport, including restricting aircraft operations.⁹ The ADA recognizes the Proprietor Exception as a limitation on the preemption provision quoted immediately above.¹⁰ The primary constraint on this authority is that any proprietor-imposed

⁵ Id. § 161.5.

⁶ Id.

⁷ 49 U.S.C. § 47524(d); 14 C.F.R. § 161.7.

⁸ 49 U.S.C. § 41713(b)(1).

⁹ British Airways Bd. v. Port Authority of New York and New Jersey, 558 F.2d 75, 83 (2d Cir. 1977) (“The task of protecting the local population from airport noise has, accordingly, fallen to the agency, usually of local government, charged with operating the airport. Indeed, since the operator controls the location of the facility, acquires the property and air easements and is often able to assure compatible land use, he is liable for compensable takings by low-flying aircraft. The right of the proprietor to limit his liability by restricting the use of his airport has been thought a corollary of this principle. It is perhaps more important, however, that the inherently local aspect of noise control can be most effectively left to the operator, as the unitary local authority who controls airport access. It has always seemed fair to assume that the operator will act in a rational manner in weighing the commercial benefits of proposed service against its costs, both economic and political.”) (citations omitted); National Helicopter Corp. of America v. City of New York, 137 F.3d 81, 88-89 (2d Cir. 1998).

¹⁰ 49 U.S.C. § 41713(b)(3) (“This subsection does not limit a State, political subdivision of a State or political authority of at least 2 States that owns or operates an airport served by an air carrier holding a certificate issued by the Secretary of Transportation from carrying out its proprietary powers and rights.”).

restriction must always be reasonable, nonarbitrary and not unjustly discriminatory.¹¹ This principle was modified and circumscribed, but not abrogated, by ANCA.

Grant Assurances – An airport proprietor that receives federal grant funds under the Airport Improvement Program (AIP) for airport development and planning projects must enter into a “grant agreement” with the FAA. Part of the agreement is a series of commitments that the airport proprietor must make as a condition of receiving grant funds. Many of the grant assurances are mandated by federal statute.¹² Grant assurances apply to the airport proprietor and to all real property shown on an exhibit to the AIP grant application. Grant assurances typically expire after 20 years; however, grant assurances associated with property acquisition are permanent. For present purposes, the most relevant Grant Assurance is a commitment that “the airport will be available for public use on reasonable conditions and without unjust discrimination.”¹³

Deed Restrictions – Many commercial airports in the United States were former military facilities transferred to local governments pursuant to the Surplus Property Act.¹⁴ All Surplus Property Act conveyances to local governments included restrictions on the use of the airport.¹⁵ Among other deed restrictions is the requirement that the airport will be available for public use on reasonable conditions without unjust discrimination. Identical language also is included in the Grant Assurances; however, deeds typically provide the U.S. Government with a right of reversion (i.e., the power to retake title) in the event of a violation.¹⁶ In contrast, violation of the grant assurances may result in suspension of eligibility to receive future grant funds.¹⁷

Airport Operating Certificate – Certificate maintained by an airport proprietor to accommodate particular air carrier operations. Federal law requires an airport proprietor to maintain an airport operating certificate if the airport is to accommodate scheduled air carrier operations by aircraft designed for more than 9 passenger seats or unscheduled air carrier operations by aircraft designed for more than 30 seats.¹⁸ Not all airports have operating certificates; in fact, most smaller general aviation airports that do not serve commercial operations do not have an operating certificate. Federal law does not require an airport proprietor to seek an airport operating certificate,¹⁹ and federal law prohibits an air carrier from

¹¹ British Airways, 558 F.2d at 84 (“It is clear to us that the Port Authority is vested only with the power to promulgate reasonable, nonarbitrary and nondiscriminatory regulations that establish acceptable noise levels for the airport and its immediate environs.”).

¹² 49 U.S.C. § 47107.

¹³ Id. § 47107(a)(1).

¹⁴ The airfield and other parts of Paine Field were owned by the U.S. Government and transferred to Snohomish County pursuant to this authority.

¹⁵ The current statutory authority for transferring federally owned airports, including the attendant restrictions, is found at 49 U.S.C. §§ 47151-47153.

¹⁶ 49 U.S.C. § 47152.

¹⁷ Id. §§ 47106(d) and 47111(d).

¹⁸ Id. § 44706.

¹⁹ Id. § 44706(f) (“Nothing in this title may be construed as requiring a person to obtain an airport operating certificate if such person does not desire to operate an airport described in subsection (a).”).

operating at an airport if the airport proprietor does not maintain a certificate to accommodate the type of operation.²⁰

Federal Preemption – This is a basic principle of Constitutional law which states that federal law is preeminent over local law. There are a number of instances in which federal law preempts local ordinances in the aviation context. The ADA preemption provision quoted above is an example of express preemption. More generally, federal law preempts *any* local law that purports to control the use of navigable airspace and preempts local ordinances that *conflict* with federal law, subject to the Proprietor Exception. Almost every significant legal conflict over local regulation of airports has involved questions of federal preemption.

Airport Proprietor – The owner or operator of an airport.²¹ Snohomish County is the proprietor of Paine Field.

B. Key Legal Principles

1. *The FAA's control over airport proprietors and airport operations derives from several sources, only a few of which authorize direct regulation.*

In some realms of federal regulation, there is a statute or regulation that clearly defines the federal role and the role of the regulated industry. That is not true for airports. One fundamental truth about federal airport law is that there is no single source of authority by which the federal government regulates the operation of an airport.

Most authority for federal regulation of airports comes from the power of the purse.²² The federal government provides substantial financial assistance to airports. Most commercial airports and many general aviation airports depend upon federal dollars for their capital projects. Much of the federal money available to airports – especially larger airports – is discretionary, meaning that the FAA can decide whether a particular airport or project is worthy of federal support. Federal dollars come with many regulatory strings. Rather than directly regulating airports, the FAA exercises control by conditioning its financial participation in airport projects on airport proprietor compliance with certain standards: the grant assurances.²³ The FAA is responsible for ensuring compliance with the grant assurances and adjudicating claims brought

²⁰ Id. § 41104(b); 14 C.F.R. §121.590.

²¹ For a discussion of the criteria used to determine whether a particular entity qualifies as the airport proprietor, see San Diego Unified Port Dist. v. Gianturco, 651 F.2d 1306 (9th Cir. 1981).

²² Arguably, the most prominent source of direct regulation of airports derives from the requirements associated with Airport Operating Certificates, discussed throughout this memorandum. While there are other examples of direct federal regulation, see 49 U.S.C. § 40103(e) (prohibition on granting “exclusive rights” to aeronautical users of airports), most federal regulation applies only in the context of airports that have received federal funding or sit on real property that was given to the local government by the federal government.

²³ As explained in the Glossary, identical requirements are imposed through deed restrictions imposed in transfers of airport property from the U.S. Government. Because the requirements are virtually identical in most instances to the requirements imposed by the grant assurances, they are treated together for the most purposes in this memorandum.

by airport users. The sanction for noncompliance is suspension of eligibility for further federal aid.²⁴

This financial control is critically important to understanding the relationship between the FAA and airports. Airport proprietors traditionally are highly risk averse when it comes to taking action that might conceivably threaten federal funding. Many airport proprietors understandably are not even willing to test the limits of their power in light of the risk. The mere *threat* of FAA displeasure offers a substantial incentive for airports to operate in a manner consistent with FAA policy – even where that policy is not grounded in solid regulatory authority.

Equally important, the FAA is itself the first arbiter of whether an airport proprietor is complying with the grant assurances. FAA regulations require two or three levels of administrative review before an airport proprietor can seek judicial review.²⁵ The courts are required to defer to the FAA’s factual findings and to the agency’s reasonable interpretation of laws within its purview.²⁶

The few standards that are prescribed by federal law often are expressed in general terms, often revolving around the concept of reasonableness. As two prominent examples, airport proprietors are authorized to charge “reasonable” fees for use of an airport and to impose “reasonable” conditions on use of their airport.²⁷ Here again, the FAA (or the Department of Transportation) is responsible for determining whether a particular action is reasonable.

The FAA’s policies are generally grounded in the agency’s responsibility to promote the national air transportation system and to protect its exclusive jurisdiction over the navigable airspace.²⁸ As a consequence, the FAA has a policy-based imperative to keep airports open to all prospective users and to minimize any actions by airport proprietors that might stifle use of an airport. This context helps explain why it is immensely difficult to secure FAA approval of (or even acquiescence to) restrictions on use of airports.

Throughout this memorandum, we detail the constraints on airport proprietors’ powers under federal law and FAA policy. This is not the result of bias in favor of either the FAA or airport users (we have advocated for the full exercise of proprietary powers in noteworthy cases across the country), but instead reflects the practical reality of how the system actually functions. Undoubtedly, there are examples of airport proprietors who have successfully challenged conventional wisdom and exercised control in the face of FAA opposition. But it was important for those airports, just as it is important for Snohomish County, first to understand the practical realities of the interaction between federal and local authority over airports.

²⁴ 49 U.S.C. §§ 47106(d) and 47111(d).

²⁵ See 14 C.F.R. Part 16.

²⁶ 49 U.S.C. § 46110(c).

²⁷ *Id.* §§ 40116(e)(2) and 47107(a)(1).

²⁸ *Id.* §§ 40103(a) and (b).

2. *Airport proprietors have authority to decide whether and when to make capital improvements at their airport but have certain obligations to accommodate air carriers desiring to use their airport.*

An airport proprietor's principal obligation under the grant assurances is to operate and maintain the airport.²⁹ This maintenance obligation is described in detail in the Airports Compliance Handbook.³⁰ The Compliance Handbook specifies that the airport proprietor is responsible for maintaining all facilities that are shown on the Airport Layout Plan (ALP) as dedicated to an aviation use and maintaining a program of preventive maintenance and minor repair for airport facilities, including airport runways and taxiways.³¹ Further, an airport proprietor holding an Airport Operating Certificate is obligated to undertake certain projects to, for example, provide runway safety areas that conform to federal design standards and provide adequate airfield lighting and marking.³²

Airport proprietors generally are not responsible for making capital improvements beyond those necessary to satisfy their maintenance obligations or to comply with the requirements of Airport Operating Certificates. For example, the federal government cannot force an airport proprietor to extend a runway or build a new runway, even in the face of current or forecast demand for improved airfield facilities. Similarly, airport proprietors cannot be forced to make infrastructure improvements (e.g., utilities, water, sewer, airfield pavement) that may be necessary to accommodate a prospective tenant desiring to make use of a presently undeveloped portion of the airport. While airport proprietors are responsible for maintaining an ALP approved by the FAA and building only those projects shown on the ALP,³³ the proprietor maintains discretion as to whether and when to build facilities depicted on the ALP or, indeed, whether to include facilities on the ALP at all.

This discretion applies to the construction and expansion of airport terminals. An airport proprietor is not obligated to seek federal financial assistance or to use other funding sources to construct a new, or expand an existing, airport terminal. Indeed, we were actively involved in negotiating a development agreement between an airport proprietor in another state and the host city in which the airport proprietor committed *not* to pursue a new passenger terminal for a specified time period. Here again, this discretion generally exists notwithstanding perceived need for new terminal facilities.

This discretion over capital improvements may run headlong into the grant assurance requirements of reasonable access and nondiscrimination.³⁴ The FAA addressed this subject in the Compliance Handbook, which provides as follows:

²⁹ Id. § 47107(a)(7).

³⁰ FAA Order 5190.6A (1989).

³¹ FAA Order 5190.6A Chap. 4, § 2 (Maintenance and Operation).

³² 14 C.F.R. Part 139, Subpart D.

³³ 49 U.S.C. § 47107(a)(16).

³⁴ 49 U.S.C. § 47107(a)(1) ("the airport will be available for public use on reasonable conditions and without unjust discrimination.").

The prime obligation of the owner of a federally-assisted airport is to operate it for the use and benefit of the public. The public benefit is not assured merely by keeping the runways open to all classes of users. While the owner is not required to construct hangars and terminal facilities, it has the obligation to make available suitable areas or space on reasonable terms to those who are willing and otherwise qualified to offer flight services to the public (i.e., air carrier, air taxi, charter, flight training, crop dusting, etc.) or support services (i.e., fuel storage, tie down, flight line maintenance, etc.) to aircraft operators. This means that unless it undertakes to provide these services itself, the airport owner has a duty to negotiate in good faith for the lease of such premises as may be available for the conduct of aeronautical activities.³⁵

The Compliance Handbook continues:

It was determined by the Office of Chief Counsel that a carrier may not be denied access to an airport solely based on the nonavailability of currently existing facilities and that some arrangements for accommodation must be made if reasonably possible. This can result in a complex situation which may not be easily resolved.

...

In some cases, a recommendation to the airport operator to provide temporary facilities, such as a mobile ticket office and gate facilities might relieve the situation. If it appears that the airport operator cannot possibly provide space, then the FAA in concert with the airport operator must develop a solution to the problem.³⁶

As this text shows, the FAA recognizes the tension between the airport proprietor's control over capital improvements and its obligation to accommodate air carriers. The paramount interest is largely unknown; past disputes over these issues have arisen in the context of barriers to access by commercial service providers at an airport, many of whom are capable of building their own hangars and support facilities. We are not aware of any instance in which the FAA or a reviewing court has ordered an airport proprietor to expend funds and build facilities necessary to accommodate an air carrier. At the same time, air carriers may be able to provide passenger service without capital improvements being made by the airport proprietor (e.g., public and on-demand charters may be able to operate directly from hangars without need for a traditional passenger terminal). Control over airport infrastructure does not, as a legal matter, relieve an airport proprietor of its grant assurance obligation to provide public access on reasonable and

³⁵ FAA Order 5190.6A § 4-15.

³⁶ FAA Order 5190.6A § 4-15(d).

nondiscriminatory terms and may not, as a factual matter, provide a totally effective means by which an airport proprietor can prevent aeronautical activities that it considers undesirable.

3. *A ban on scheduled passenger service, if enacted today, must comply with ANCA, the ADA, grant assurances and deed restrictions.*³⁷

There are multiple overlapping legal constraints on an airport proprietor's authority to restrict scheduled passenger service. First, a prohibition on scheduled passenger service would, as a factual matter, necessarily limit operations by Stage 2 or Stage 3 aircraft and, as a legal matter, appear to fall within the broad definition of a "noise or access restriction" in Part 161. As a result, the FAA likely would consider a ban on scheduled passenger service to be subject to ANCA and Part 161, even though the measure would not explicitly mention noise or noise stage rating. While it is possible that a restriction that demonstrably is based on considerations entirely unrelated to noise (e.g., safety) would not be subject to ANCA, the FAA historically has looked to an airport proprietor's motivations in imposing restrictions. If the FAA believes that the proprietor is motivated in any material way by noise (even if the purported reason for the restriction is not tied to noise), the agency almost certainly would declare the restriction to be subject to ANCA and Part 161.³⁸

Further, since a prohibition would limit operations by Stage 3 aircraft, the most onerous requirements of ANCA and Part 161 would apply. To comply with these requirements, an airport proprietor would be obligated to conduct a thorough analysis of a prohibition and its alternatives, establish that the prohibition satisfies the substantive standards prescribed by statute and regulation, and obtain FAA approval prior to implementing and enforcing the prohibition.

Second, in addition or as an alternative to ANCA, a mandatory prohibition on scheduled passenger service would have to be permissible under the ADA and the Proprietor Exception. Compliance with the ADA was exhaustively reviewed in the context of a ban on scheduled passenger service imposed by the Arapahoe County Public Airport Authority ("Arapahoe County") for the Centennial Airport in Colorado. Arapahoe County's ban was the subject of litigation before the Colorado Supreme Court, the FAA, and the U.S. Court of Appeals. The Colorado Supreme Court held that Arapahoe County's ban was not preempted by the ADA, was

³⁷ There is a wide variety of types of restrictions on air service and a virtually infinite number of permutations of restrictions. For purposes of this background section, we describe the rules applicable to a mandatory restriction on "scheduled passenger service." Section IV below contains a detailed discussion of the specific types of aircraft operations included in the MRD Document and the County's authority to limit these and other types of operations.

³⁸ See Notice of Proposed Policy, Weight-Based Restrictions at Airports, 68 Fed. Reg. 39,176, 39,177 (2003) (In proposing a new policy on weight-based restrictions, the FAA stated that it would guard against noise rules disguised as weight limits: "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."); Millard Refrigerated Services, Inc. v. FAA, 98 F.3d 1361 (D.C. Cir. 1996) (court remanded case to FAA to determine whether airport weight limit was subject to ANCA in light of inclusion of "indirect" limits in the definition of "noise or access restriction"); Letter from Cynthia Rich, FAA Associate Administrator for Airports to J. Richard Studenny, counsel to Millard Refrigerated Services (April 7, 1995) (copy on file) (in FAA investigation leading to the appellate court review, FAA concluded that "[s]ince the [weight] limitation was not imposed to control noise or limit access, it is not a noise or access restriction within the meaning of ANCA.").

a lawful exercise of the Proprietor Exception, and did not violate Arapahoe County's grant assurances.³⁹ The FAA, in a separate administrative proceeding, concluded the exact opposite: Arapahoe County's ban was preempted by the ADA, was not a lawful exercise of the Proprietor Exception, and violated Arapahoe County's grant assurance obligations on reasonable access and nondiscrimination.⁴⁰ Based on this decision, the FAA suspended Arapahoe County's eligibility for grant funding.⁴¹ The U.S. Court of Appeals for the Tenth Circuit upheld the FAA's decision, after finding that the Colorado Supreme Court's decision was not binding on the agency.⁴²

Arapahoe County attempted to defend its prohibition on a number of grounds, including that the rule was necessary in the interests of safety and the civil aviation needs of the public.⁴³ The FAA found, and the U.S. Court of Appeals affirmed, that Arapahoe County had not presented sufficient factual evidence in support of these contentions. The FAA concluded:

If anything, the civil aviation needs of the public support the opposite policy – permitting scheduled service as well as unscheduled service at Centennial Airport. If the public does not want or need scheduled passenger service at Centennial Airport, market forces will lead to that result. The ban is both unnecessary and unlawful.⁴⁴

There have been a few additional reported cases on the application of the ADA preemption provision and the Proprietor Exception to airport restrictions affecting commercial passenger service, although none as directly on point as the Centennial Airport cases. For example, in a 1984 case,⁴⁵ a U.S. District Court denied a request to compel Westchester County, New York to accept Midway Airlines' application to initiate passenger service at the Westchester County Airport. Westchester County has had longstanding limits, still in effect today, on the level of commercial passenger service based on the small size of the passenger terminal.⁴⁶ The court denied Midway's motion on the basis that Westchester County had not denied the request but rather was in the process of considering the application. The court declined to rule that Westchester County's limit on operations was preempted by the ADA or otherwise unlawful and found to the contrary that "federal law recognizes the traditional authority of local governments to regulate airport usage by the 'exercise of [their] proprietary powers and rights'."⁴⁷ (ANCA was not applicable in this case since the limit predated enactment of ANCA.)

³⁹ Arapahoe County Public Airport Authority v. Centennial Express Airlines, Inc., 956 P.2d 587 (Colo. 1998).

⁴⁰ Final Agency Decision and Order, Centennial Express Airlines v. Arapahoe County Public Airport Authority, 1999 FAA LEXIS 805.

⁴¹ As examined below, Arapahoe County was able to restore its eligibility for grant funding through legislative relief. See 49 U.S.C. § 47107(q).

⁴² Arapahoe County Public Airport Authority v. FAA, 242 F.3d 1213 (10th Cir. 2001).

⁴³ See FAA Order 5190.6A § 4-8(a)(2) ("In the interest of safety, the airport owner may prohibit or limit any given type, kind, or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.").

⁴⁴ 1999 FAA LEXIS at *43.

⁴⁵ Midway Airlines, Inc. v. Westchester County, 584 F.Supp. 436 (S.D.N.Y. 1984).

⁴⁶ These limits were adopted pre-ANCA and thus are considered grandfathered.

⁴⁷ 584 F. Supp. at 440 quoting 49 U.S.C. § 41713(b)(3).

Reviewing courts also have been called upon to consider the scope of the ADA and Proprietor Exception in the context of so-called “perimeter rules” that define the maximum trip length that can be offered by air carriers serving an airport.⁴⁸

The precise scope of the Proprietor Exception has not been precisely defined by the courts. Thus, the factors and considerations that would justify any particular restriction remain somewhat unclear. The Proprietor Exception unquestionably justifies actions to reduce significant noise exposure, subject to compliance with ANCA. As reflected in the Centennial Airport cases, it also applies to an airport proprietor’s efforts to ensure safety and/or promote the civil aviation needs of the public (although Arapahoe County failed to provide sufficient evidence to support its restriction). At least one reviewing court has accepted that managing congestion in a multi-airport system is a legitimate basis for exercising the Proprietor Exception.⁴⁹ In reviewing the entire body of caselaw, one court observed that the Proprietor Exception more generally supports local rules “targeted at advancing a specific local interest.”⁵⁰

In addition to ANCA and the ADA, a third constraint on restricting passenger service is the grant assurances. On one level, the grant assurance standards – reasonableness and nondiscrimination – are identical to the judicially-imposed standards for determining whether a particular measure fits within the Proprietor Exception (and complies with ANCA). For this reason, the cases examined above concerning the ADA and the Proprietor Exception are highly relevant in considering the application of the grant assurances. The principal difference is that compliance with the grant assurances is determined *first* by the FAA, in a decision that may then be reviewed by a federal appellate court, while compliance with the ADA and Proprietor Exception may be reviewed *first* by a federal court. Moreover, the FAA does not consider itself bound by judicial decisions in litigation where it was not a party. The consequence, as evidenced in the Centennial Airport cases and a few other cases, is that the FAA can pursue an administrative enforcement action against an airport proprietor for violation of the grant assurances even where a court has found that a restriction constitutes a lawful exercise of the Proprietor Exception.⁵¹

This distinction between FAA review and court review is critically important. The FAA historically has opposed local airport restrictions of any sort, based largely on a policy interest in promoting the national air transportation system. The courts have been far more lenient toward local restrictions that are intended to address local concerns. As a result, when the FAA is the

⁴⁸ Western Air Lines, Inc. v. Port Authority of New York and New Jersey, 658 F.Supp. 952 (S.D.N.Y. 1986) *aff’d*, 817 F.2d 222 (2d Cir. 1987) (court held that perimeter rule at LaGuardia Airport was valid exercise of Proprietor Exception); City of Houston v. FAA, 679 F.2d 1184 (5th Cir. 1982) (court upheld perimeter rule at Washington National Airport finding, although arguably in dicta, that the restriction was a valid exercise of the Proprietor Exception). See also American Airlines, Inc. v. DOT, 202 F.3d 788 (5th Cir. 2000) (court upheld FAA determination that local restrictions on passenger service at Love Field Airport were preempted).

⁴⁹ Western Air Lines, 658 F.Supp. at 958.

⁵⁰ American Airlines, 202 F.3d at 806.

⁵¹ This does not mean, of course, that the FAA always is successful. In one case, the FAA found that a restriction on aircraft operations was unreasonable under the grant assurances even after the U.S. District Court found that the restriction was a permissible exercise of the Proprietor Exception, but the U.S. Court of Appeals later overturned the FAA’s decision. City of Naples Airport Authority v. FAA, 409 F.3d 431 (D.C. Cir. 2005).

initial decision maker, it is unlikely to uphold local restrictions. Where a federal court is the first decision maker, the court may favor local control. This distinction accounts in large part for the apparent disparity in decisions over local airport restrictions.

A fourth constraint on restricting passenger service is the restrictions included in the deeds by which the U.S. Government transferred airport property to the current airport proprietor. Although many airports were not owned by the U.S. Government and thus are not subject to deed restrictions, Paine Field is a deed-restricted airport. The deed restrictions include requirements of reasonable access and nondiscrimination virtually identical to the grant assurances. The principal difference is that the penalty for violating the grant assurances is suspension of eligibility for future federal aid, which the penalty for violating the deed restrictions is the possible reversion of title to the U.S. Government. We are not aware of any instance in which the U.S. Government has attempted to exercise its right of reversion; however, the FAA has threatened this draconian sanction in several recent cases.

Procedurally, an airport proprietor would today be obligated to comply with ANCA and Part 161, prepare an exhaustive study including a benefit-cost analysis, submit an application to the FAA, and obtain FAA approval before implementing a mandatory restriction. If the FAA believed that the restriction was improper, the agency could reject the Part 161 application on grounds that the restriction is inconsistent with the statutory and regulatory standards, which include, but are not limited to, the principles described above for the Proprietor Exception (e.g., the restriction must be reasonable, nonarbitrary and nondiscriminatory; cannot unreasonably burden interstate commerce; and cannot unreasonably burden the national aviation system).⁵²

If an airport proprietor imposed a restriction without complying with ANCA and obtaining FAA approval, the FAA could use the enforcement mechanism provided in ANCA to suspend eligibility for federal funds.⁵³ Alternatively, the FAA could pursue an enforcement action for violation of the grant assurances⁵⁴ or seek relief in court to enforce the deed restrictions, enjoin violations of the grant assurances or seek injunctive relief based on violation of the ADA preemption provision. An air carrier or other affected party could file an administrative complaint with the FAA alleging violation of the grant assurances⁵⁵ or file a complaint in federal district court claiming preemption under the ADA. It is important to emphasize that there is more at stake in these disputes than federal grants since the FAA and complainants can seek injunctive relief to stop enforcement of a restriction.⁵⁶

4. *Airport proprietors can impose only reasonable rates and charges on aeronautical users and can use airport revenue only for capital and operating costs of the airport.*

⁵² See 49 U.S.C. § 47524(c)(2); 14 C.F.R. § 161.305(e).

⁵³ 49 U.S.C. § 47526; 14 C.F.R. Part 161, Subpart F.

⁵⁴ 14 C.F.R. § 16.101.

⁵⁵ *Id.* § 16.23.

⁵⁶ The FAA very rarely needs to go to court to enforce its grant assurances because the threat of loss of grant eligibility is generally sufficient incentive for airport proprietors to comply with the agency's directives. *But see, Mineta v. Bd. of County Comm'rs of Delaware County*, 2006 WL 2711559 (N.D. Okla. 2006) (likely the first reported case in which FAA sought injunctive relief to enjoin violation of grant assurances).

Federal law recognizes an airport proprietor's right to impose reasonable and nondiscriminatory fees on aircraft operators at an airport.⁵⁷ Indeed, the grant assurances require airport proprietors to maintain a schedule of rates and charges that will "make the airport as self-sustaining as possible under the circumstances existing at the airport."⁵⁸

The FAA has issued a policy statement on the imposition of rates and charges.⁵⁹ In general, airport proprietors can impose costs on airport users to cover the airport proprietor's cost to operate and maintain the airport, including capital and operating costs, environmental costs, debt service, and indirect costs based on a transparent cost allocation formula. The policy also permits airport proprietors to charge aeronautical users for use of the airfield based on the historic cost of this land to the proprietor. Air carriers may file an administrative complaint with the Department of Transportation or the FAA to challenge a fee.⁶⁰

One particularly relevant aspect of the federal rules on airport rates and charges is the extent to which an airport proprietor can use the airport rate structure to create financial incentives or disincentives for particular types of aircraft operations. The most contentious issue historically is a practice by which airport proprietors charge fees for smaller aircraft in a way that discourages their use of commercial service airports and thereby helps to reduce congestion and delay experienced by air carriers.⁶¹ In a more recent case, the FAA found that the proprietor of a general aviation airport had violated the grant assurances by imposing a landing fee structure that attempted to address runway deterioration caused by larger general aviation aircraft.⁶² Regardless of whether an airport proprietor is trying to encourage or discourage a particular type of operation, the standards are the same. An airport proprietor must have a legitimate basis, tied in some manner to the proprietor's cost to operate and maintain the airport, for imposing differential fees.

⁵⁷ 49 U.S.C. § 40116(e) ("a State or political subdivision of a State may levy or collect . . . (2) reasonable rental charges, landing fees, and other service charges from aircraft operators for using airport facilities of an airport owned or operated by that State or subdivision."); 49 U.S.C. § 47107(a)(2) ("air carriers making similar use of the airport will be subject to substantially comparable charges – (A) for facilities directly and substantially related to providing air transportation . . .").

⁵⁸ *Id.* § 47107(a)(13)(A).

⁵⁹ Policy Regarding Airport Rates and Charges, 61 Fed. Reg. 31994 (1996) *vacated in part by* Air Transport Ass'n of America v. DOT, 119 F.3d 38 (D.C. Cir. 1997).

⁶⁰ 49 U.S.C. § 47129(a); 14 C.F.R. Part 302, Subpart F; 14 C.F.R. Part 16.

⁶¹ Aircraft Owners and Pilots Ass'n v. Port Authority of New York, 305 F.Supp. 93 (E.D.N.Y. 1969) (court upheld Port Authority's fee of \$25 per take-off for small aircraft operating during peak hours); New England Legal Foundation v. Massachusetts Port Authority, 883 F.2d 157 (1st Cir. 1989) (court upheld FAA determination that minimum landing fee was unreasonable, discriminatory and preempted because it was not scientifically derived); Union Flights, Inc. v. San Francisco International Airport, FAA Docket No. 16-99-11, 2000 WL 311170 (Feb. 15, 2000) (FAA upheld San Francisco's minimum landing fee for all aircraft weighing less than approximately 30,000 pounds).

⁶² Bombardier Aerospace Corp. v. City of Santa Monica, FAA Docket No. 16-03-11, 2005 FAA LEXIS 2 (Jan. 4, 2005).

Closely related to the federal standards on airport rates and charges is the federal prohibition on using airport revenue for non-airport purposes.⁶³ The prohibited activity commonly is referred to as “revenue diversion,” reflecting an historical practice by some airport proprietors of using airport revenue for municipal purposes unrelated to the airport (e.g., parks, schools, etc.). The FAA has issued a policy statement on the use of airport revenue which identifies a broad list of permitted and prohibited uses of airport revenue to correspond to the statutory proscription on using revenue for purposes unrelated to the capital and operating costs of the airport, the airport system, or other transportation facilities owned by the same entity and directly and substantially related to air transportation.⁶⁴

The most relevant aspect of the FAA’s revenue use policy to the questions presented herein about encouraging and discouraging passenger service is its treatment of airport marketing and direct subsidies to air carriers. Airport proprietors are authorized to promote and market an airport through the use airport revenue for:

The full costs of activities directed toward promoting competition at an airport, public and industry awareness of airport facilities and services, new air service and competition at the airport (other than direct subsidy of air carrier operations prohibited by paragraph VI.B.12 of this policy), and salary and expenses of employees engaged in efforts to promote air service at the airport, subject to the terms of this policy statement.⁶⁵

As reflected in the parenthetical note, although general promotion of the airport is permissible, direct subsidies to an air carrier are prohibited. The list of prohibited uses of airport revenue includes the following:

Direct subsidy of air carrier operations. Direct subsidies are considered to be payments of airport funds to carriers for air service. Prohibited direct subsidies do not include waivers of fees or discounted landing or other fees during a promotional period. Any fee waiver or discount must be offered to all users of the airport, and provided to all users that are willing to provide the same type and level of new services consistent with the promotional offering. Likewise prohibited direct subsidies do not include support for airline advertising or marketing of new services to the extent permitted by Section V of this Policy Statement.⁶⁶

⁶³ 49 U.S.C. § 47133(a) (“Local taxes on aviation fuel (except taxes in effect on December 30, 1987) or the revenues generated by an airport that is the subject of Federal assistance may not be expended for any purpose other than the capital or operating costs of – (1) the airport; (2) the local airport system; or (3) any other local facility that is owned or operated by the person or entity that owns or operates the airport that is directly and substantially related to the air transportation of passengers or property.”); 49 U.S.C. § 47107(b)(1).

⁶⁴ Policy and Procedures Concerning the Use of Airport Revenue, 64 Fed. Reg. 7,696 (1999).

⁶⁵ 64 Fed. Reg. at 7,718 (Policy Statement at § V.A.2).

⁶⁶ Id. at 7,720 (Policy Statement at § VI.B.12).

IV. DISCUSSION OF QUESTIONS PRESENTED

A. **To what extent does current federal law conflict with or supersede the MRD Document? For example, does the Airport Noise and Capacity Act of 1990 conflict with the MRD Document's statement regarding discouraging certain types of air service? Are there other federal statutes, regulations, court decisions, deed restrictions or grant assurances that conflict with or supersede any part of the MRD Document?**

Short Answer: The MRD Document does not constitute a mandatory enforceable restriction on aircraft operation. It is not, therefore, inconsistent with federal law or policy. Any mandatory restriction adopted by the County would have to comply with the procedural and substantive requirements of federal law.

As a threshold matter, we do not interpret the MRD Document as imposing a mandatory prohibition on scheduled passenger service.⁶⁷ While it is hard to prove what a document is not, we find sufficient evidence to conclude that the MRD Document does not, by itself, impose any mandatory restriction on aircraft operations. The evidence we find compelling includes the following:

- The April 1978 and January 1979 documents use the verbs “encourage” and “discourage” to describe the County’s approach towards particular types of aircraft operations. These words do not connote a mandatory restriction. Because of the onerous prerequisites under federal law for any local restrictions on commercial passenger service, airport proprietors commonly and purposefully use terms such as these, as well as similar words such a “voluntary,” “preferred” and “recommended,” to convey the airport proprietor’s aspirational goals rather than mandatory prohibitions.
- The April 1978 and January 1979 documents do not explicitly impose any mandatory restrictions on aircraft operations and, to the contrary, in the January 1979 document, the County deleted provisions from the April 1978 document that might otherwise have been considered to be mandatory restrictions on aircraft operations.
- The January 1979 document recognizes that the general aviation role will be pursued “in compliance with the covenants in deeds

⁶⁷ We do not attempt to offer an opinion on the application of state law to the MRD Document, particularly as to whether the MRD Document is binding on the County under the Charter and state law. Rather, our opinion is based on federal law and our experience in the regulation of airports around the country.

and grants of the U.S. Government.” While not dispositive, this language suggests that the County did not intend to take an action that might be considered inconsistent with the deed restrictions and grant assurances.

- The April 1978 and January 1979 documents do not identify with specificity the precise types of operations that might theoretically be subject to a restriction. The documents refer to several types of operations that are not used in the federal aviation statutes and regulations. Airport proprietors around the country have attempted to impose restrictions using a wide variety of criteria (e.g., noise levels, aircraft type, weight, etc.), and it would have been virtually impossible for the regulated community to know precisely what conduct is prohibited by the MRD Document. At a minimum, further action by the County would have been necessary to define the nature and scope of any mandatory restriction. We understand that there was no such subsequent action by the County.

- The April 1978 and January 1979 documents extensively discuss activities to advance the general aviation role, all of which are within the traditional authority of an airport proprietor. These activities include the following:
 - Construction of a new runway to accommodate general aviation traffic;
 - Staffing of the airport noise mitigation program;
 - Land use controls and land acquisition;
 - Implementation of voluntary noise abatement procedures;
 - Creation of a Paine Field Steering Committee;
 - Completion of the Paine Field Master Plan;
 - Consideration of local land use regulation; and
 - Formation of a Paine Field Community Council.

There is no caselaw on the precise question presented about the nature of language such as that contained in the MRD Document. We believe that an analogous and instructive case is Air Transport Association of America v. Crotti.⁶⁸ The case concerned a California statute and

⁶⁸ 389 F. Supp. 58 (N.D. Cal. 1975).

implementing regulation which imposed a general requirement that California airports could not be responsible for creating incompatible land use surrounding each airport (measured using a standard of cumulative noise exposure) and a specific requirement that individual aircraft operations could not exceed a particular noise level. The court held that the limit on cumulative noise exposure, which could be met by a variety of means including those enumerated in the regulations, was not preempted, but that the single-event noise limit was preempted. The court found that the limit on cumulative noise exposure was not facially preempted since “none of the Airports have as yet taken definite affirmative action in the field of controlling aircraft traffic under [cumulative noise levels]. So further delineation of any airport proprietor’s authority or limitations thereof in the enforcement of [cumulative noise levels] must await another day.”⁶⁹

Here, as in Crotti, Snohomish County has multiple, permissible avenues for promoting the general aviation role adopted in the MRD Document. Many of these avenues do not require imposition of any mandatory restrictions on use of the airport. Indeed, the County agreed to pursue several such measures within the MRD Document itself. We are aware of subsequent statements to the effect that the MRD Document constitutes a mandatory prohibition on scheduled passenger service. We do not believe that these statements are accurate (and understand that County staff feels similarly); further action by Snohomish County would have been, and remains, necessary to implement a mandatory prohibition on scheduled passenger service or any other restriction on aircraft operations.⁷⁰

With this characterization of the MRD Document in mind, we do not find that the MRD Document is inconsistent with federal law or policy. In particular, the MRD Document does not itself constitute a “noise or access” restriction subject to ANCA and Part 161 because it does not limit the operations of Stage 2 or Stage 3 aircraft. The concept of “grandfathering” simply is not at issue; the grandfathering doctrine is inapplicable since the MRD Document is not a noise or access restriction adopted prior to the statute’s enactment in 1990.⁷¹

Any mandatory prohibition adopted by Snohomish County now or in the future pursuant to the policy directives in the MRD Document *likely* would be subject to the procedural and substantive

⁶⁹ Id. at 65.

⁷⁰ The FAA took the position in other instances that a legislative enactment that is an expression of policy cannot constitute a mandatory use restriction. In the case of the Burbank-Glendale-Pasadena Airport, the FAA took the position that a statutory obligation imposed on the proprietor to limit noise impacts does not constitute a mandatory use restriction, since the proprietor could take any number of actions to achieve the goal short of imposing a use restriction. The agency generally views restrictions as measures of last resort, *i.e.*, an airport proprietor can impose mandatory restrictions only where *necessary* to comply with binding enactments. The FAA position in that instance does not have the force of law but provides useful guidance on the position the agency would take in court, which position would be accorded substantial deference. See Chevron USA, Inc. v. NRDC, 467 U.S. 837 (1984) (a federal agency that has been charged with administration of a federal statute is generally accorded substantial deference in interpretation of the statute).

⁷¹ 14 C.F.R. Section 161.7 provides several exemptions from the procedural and substantive requirements of Part 161. All of those exemptions, or grandfather provisions, are limited to instances in which a “noise or access restriction” pre-dated ANCA. The County would have a difficult argument that the MRD Document constitutes a “noise or access restriction;” the County’s own course of action over the last 16 years would further belie any such argument.

requirements of ANCA and Part 161 applicable to restrictions on Stage 3 aircraft. We say *likely* because the background documents we have reviewed characterize the concern with passenger service as relating to environmental impacts in general and noise specifically. If Snohomish County reasonably could argue that it was motivated by considerations entirely unrelated to noise (*e.g.*, safety, congestion or operational efficiency), there is a remote chance that the restriction would not be subject to ANCA and Part 161. The historical concern with noise itself may be sufficient to trigger ANCA; the FAA might conclude that any other justification offered is mere subterfuge.

Further, we do not believe that the MRD Document is preempted under the ADA or violates the County's grant assurances or deed restrictions. We understand that the MRD Document has not been the subject of any enforcement action against the County and that, to the contrary, the FAA has stated on several occasions that the County is authorized to define the intended role of Paine Field. The FAA has taken issue only with specific actions by the County in reliance on the MRD Document, such as the County's proposed approach to airport master planning. The MRD Document, standing alone, would not present the basis for a valid cause of action that could be used in administrative or judicial litigation against the County. Again, it is only subsequent action by the County that might be such a cause of action.

B. Current federal law appears to restrict the ability of a local government airport proprietor and operator to limit air passenger service. To what extent, if any, does federal law allow a local government airport proprietor and operator to limit air passenger service? If so, how and to what extent?

Short Answer: There are three ways for an airport proprietor to impose mandatory limits on air passenger service: (1) refuse to seek or to maintain an Airport Operating Certificate, (2) adopt a mandatory restriction pursuant to ANCA and Part 161, or (3) obtain congressional relief.

We understand the use of the word "limit" in this question to refer to a mandatory restriction on air passenger service. Accordingly, the following is a discussion of the various mechanisms by which the County could impose mandatory restrictions. In our response to Question #4 below, we describe the additional mechanisms available to the County to encourage or discourage air passenger service without resort to mandatory restrictions.

The assumption behind this question, that federal law constrains an airport proprietor's authority in this area, is entirely accurate. As explained in Section III above, there are multiple overlapping substantive standards that constrain an airport proprietor's authority, including the ADA, the standards for exercising the Proprietor Exception, the grant assurance and deed restrictions.

There are three alternative procedural mechanisms to limit air passenger service: (1) decline to seek and maintain an Airport Operating Certificate; (2) adopt a mandatory restriction pursuant to ANCA and Part 161; or (3) obtain federal legislative relief. Arguably, the fourth mechanism is to exercise control over capital improvements such as the construction or expansion of the passenger terminal. Because exercising such control is neither an explicit mandatory prohibition

nor is always entirely effective at eliminating the unwanted activity, we address this topic in response to Question #4.

Airport Operating Certificate. First, an airport proprietor is not obligated to seek and obtain an Airport Operating Certificate. A Certificate is necessary to accommodate “any scheduled passenger operation of an air carrier operating aircraft designed for more than 9 passenger seats” or to accommodate “an air carrier operating aircraft designed for at least 31 passenger seats.”⁷² In amending this statute in 1996, Congress clarified that “nothing in this title may be construed as requiring a person to obtain an airport operating certificate if such person does not desire to operate an airport described in subsection (a).”⁷³

This statutory language is important. Congress has never directed the FAA to define the appropriate role for any particular airport; the role of an airport is always defined by the airport proprietor. In general, an airport proprietor who does not desire scheduled passenger service operations in 10+ seat aircraft or any air carrier operations in 31+ seat aircraft can preclude such operations simply by not seeking an Airport Operating Certificate. The airport proprietor does not have to impose any mandatory restriction on aircraft operations; air carriers are prohibited by federal law from using an airport that does not maintain the requisite certificate.⁷⁴

In the Centennial Airport cases, Arapahoe County imposed a blanket prohibition on *all* scheduled passenger service. Thus, the fact that Arapahoe County did not have an Airport Operating Certificate was not a defense since scheduled service in small aircraft otherwise could have used the airport without the certificate. Had Arapahoe County crafted its restriction more narrowly to target only those operations that would have demanded an Airport Operating Certificate, or simply refrained from obtaining a certificate, the County’s action almost certainly would have been upheld.

While the FAA cannot require that an airport proprietor seek an Airport Operating Certificate, once an airport proprietor has sought and received such a Certificate, it thereby subjects itself to considerable federal regulatory control. The Snohomish County situation is complicated because the County does maintain an Airport Operating Certificate for Paine Field. We understand from Airport staff that the County has maintained a certificate since 1974 to accommodate charter operations at the Airport, which do not occur today, and presently maintains a certificate to accommodate operations by Boeing. In addition, the 1966 Joint Use Agreement between Boeing and Snohomish County requires the County to maintain Paine Field in a manner that largely can be satisfied by meeting the requirements for the Airport Operating Certificate.⁷⁵

⁷² 49 U.S.C. § 44706(a).

⁷³ *Id.* § 44706(f).

⁷⁴ *Id.* § 41104(b); 14 C.F.R. § 121.590.

⁷⁵ We have seen statements in background documents to the effect that the County-Boeing Agreement *requires* the County to maintain an Airport Operating Certificate. Since the Agreement predated the Airport Operating Certificate statute and regulations, we cannot see how this is the case. We are not aware of an amendment to the Agreement imposing this requirement.

Currently, the County is designated as Class IV pursuant to the FAA regulations, which permits unscheduled passenger service in 31-seat aircraft and larger but not scheduled passenger operations in any aircraft. Thus, under FAA regulations, *scheduled passenger service is not today permitted at the Airport*. The relevant questions for Paine Field are (1) whether the County may be obligated to change its class designation to accommodate scheduled passenger operations if an air carrier desires to provide such service; and (2) whether the County could abandon its Airport Operating Certificate while continuing to accommodate Boeing, Goodrich Aerospace and similar airport users. We are not aware of a legal opinion from the FAA or other binding legal precedent on these issues. On one level, it would appear that, just as the statute recognizes an airport proprietor's right not to obtain an Airport Operating Certificate in the first instance, airport proprietors can refuse requests that they change their class designation or abandon their certificate altogether. Nevertheless, it remains possible that the County would be subject to attack for potential violation of the grant assurances. This issue is addressed further in response to Question #6.

Part 161 Restriction. The second mechanism available to the County is to pursue a mandatory restriction pursuant to ANCA and Part 161. The County would have to prepare a comprehensive study on the restriction and its alternatives, provide opportunities for public participation, submit an application to the FAA, and obtain FAA approval prior to implementing a restriction. The airport proprietor must provide substantial evidence that six statutory criteria are satisfied:

- (A) the restriction is reasonable, nonarbitrary and nondiscriminatory;
- (B) the restriction does not create an unreasonable burden on interstate or foreign commerce;
- (C) the restriction is not inconsistent with maintaining the safe and efficient use of the navigable airspace;
- (D) the restriction does not conflict with a law or regulation of the United States;
- (E) an adequate opportunity has been provided for public comment on the restriction; and
- (F) the restriction does not create an unreasonable burden on the national aviation system.⁷⁶

We are not sufficiently familiar with the facts to opine on whether the County could satisfy these criteria and obtain FAA approval for a mandatory restriction on air passenger service at Paine Field. Nevertheless, we offer a few general comments that should illustrate the challenge of obtaining FAA approval. First, the FAA has not approved a restriction on Stage 3 aircraft under ANCA since the statute's enactment in 1990. Indeed, the agency's policy opposition is so strong that *no* airport proprietor has even submitted an application for approval of a noise restriction in the 16 years since ANCA's enactment.⁷⁷

⁷⁶ 49 U.S.C. § 47524(c)(2).

⁷⁷ One airport proprietor, the City of Naples (FL) Airport Authority successfully completed the Part 161 process for a Stage 2 restriction, which does not require FAA approval. As an indication of agency and industry opposition to

The MRD Document and the general aviation role would not, standing alone, provide sufficient justification for a use restriction. Arapahoe County made essentially this argument in defending its ban on scheduled passenger service, which the FAA flatly rejected.

Although Centennial Airport's primary function may be to serve general aviation, it does not logically follow that any level of scheduled Part 135 service is inconsistent with that primary function. The initiation of scheduled passenger service at Centennial Airport is unlikely to change the predominantly general aviation role of the airport. The claim that permitting both scheduled and unscheduled passenger operations would alter the character of the airport is speculative. There have been no studies suggesting that scheduled passenger service would reduce general aviation use of the airport. In the unlikely event that scheduled passenger service ever undermined the airport's reliever role, there were reasonable and nondiscriminatory restrictions short of a total ban which could have been attempted.⁷⁸

It would be immensely challenging for the County to establish that a restriction on passenger service is reasonable and nondiscriminatory. The existing level of activity at the Airport, existing operations by large and relatively noisy aircraft, and existing airport facilities and safety protections all suggest that Paine Field is *physically capable* of accommodating passenger service. Further, the noise consultant's analysis indicates that introducing passenger service is not likely to create new incompatible land use and would not dramatically increase cumulative noise exposure.

Even if the County could establish an existing noise problem or the threat of a future noise problem that a restriction would be designed to prevent, the FAA almost certainly would object to a restriction as discriminatory. Specifically, the County would have to justify distinguishing between aircraft engaged in commercial passenger service and identical aircraft that do not engage in passenger service. If the County were to restrict passenger aircraft that are smaller and quieter (*e.g.*, regional jets) than aircraft that are allowed to use the airport (*e.g.*, Boeing 747s), it is probable that the FAA would find that the restriction is unjustly discriminatory. In other words, the FAA is likely to object to any decision to permit Boeing aircraft to continue to operate while banning quieter aircraft that would be used for passenger service.⁷⁹

noise restrictions, the Airport Authority had to defend against two state and three federal court challenges to its restriction. See City of Naples Airport Authority v. FAA, 409 F.3d 431 (D.C. Cir. 2005). We are aware of several other airport proprietors that are considering Stage 3 restrictions; three Part 161 studies are currently underway, all in the Los Angeles area (Bob Hope Airport in Burbank, Los Angeles International Airport and Van Nuys Airport).

⁷⁸ 1999 LEXIS 805 *41-42 (although the FAA indicated that other forms of restriction might be permissible, the FAA did not elaborate, here or elsewhere, the types of restrictions that it might accept).

⁷⁹ See San Francisco v. FAA, 942 F.2d 1391 (9th Cir. 1991) (court affirmed FAA determination that San Francisco's ban on particular aircraft type was unjustly discriminatory because noisier aircraft could continue to operate at the airport.)

Legislation. The third potential mechanism for restricting air passenger service would be to obtain legislative relief from Congress. While rare, several communities have imposed new aircraft restrictions, or protected existing restrictions, in this way. Examples include the following:

- Congress authorized a ban on Stage 2 aircraft at the Grand Teton Airport in Jackson Hole, Wyoming.⁸⁰
- Congress restored the Arapahoe County's grant eligibility by declaring that the ban on scheduled passenger service at the Centennial Airport is consistent with the grant assurances.⁸¹
- Congress protected a pre-existing weight limit at the Teterboro Airport in New Jersey that had been the subject of an FAA investigation.
- Congress, over the course of several years, imposed severe constraints on scheduled passenger service at Love Field in Texas and later loosened those restrictions. Just this month, after considerable political pressure, Congress agreed to phase out all Love Field restrictions over a period of several years.

In addition to these examples, ANCA itself is replete with airport-specific provisions that have protected aircraft restrictions in effect or pending at various airports. Moreover, even in this era of deregulation, Congress has continued to exercise control over airport operations by, for example, imposing "slot rules" at a few airports that face severe physical constraints (e.g., Reagan National Airport and LaGuardia Airport).

Because of the nature of the legislative process, it is impossible to identify specific criteria that justify congressional intervention. The political influence of the airport's congressional delegation on airport and aviation issues often is critical. At least in the case of Centennial and Teterboro Airports, Congress intervened only after the restriction had been the subject of scrutiny by the FAA. Measures initiated in the first instance by Congress, such as the Stage 2 ban in Grand Teton, are far less common. Thus, a good rule of thumb, not universally true, is that airport proprietors and their surrounding communities typically must attempt to resolve the matter with the FAA before Congress will intervene.

C. Does federal law prevent the County from treating a passenger air carrier like other developers in imposing mitigation fees and recovering other costs associated with new development?

⁸⁰ Vision 100 – Century of Aviation Reauthorization Act, Pub. L. 108-176 § 825, 117 Stat. 2490 (2003).

⁸¹ 49 U.S.C. § 47107(q). This provision does not refer to Centennial Airport explicitly but rather establishes criteria for restricting scheduled passenger service that are satisfied only by that airport. Paine Field meets some, but not all, of these criteria. Although beyond the scope of this memorandum, one approach for seeking legislative relief to restrict scheduled passenger service at Paine Field would be to amend this provision.

Short Answer: *Federal law imposes specific requirements on the rates and charges imposed by airport proprietors on airport users. In general, aeronautical users of an airport can be charged only reasonable fees that reflect the airport proprietor's costs to accommodate those users. An airport proprietor cannot use its rates and charges to discriminate against passenger service but it can adopt reasonable differential rates for different types of users.*

The rules applicable to airport rates and charges are extensive and complex. A comprehensive explanation of the standards and accounting principles used at airports is beyond the scope of this memorandum. Moreover, without looking at a particular proposal or option, it is difficult to answer in the abstract whether any County-imposed "mitigation fees" and "other costs" would be permissible. While we have tried below to answer the letter and spirit of this question, the most accurate answer is that the federal standards on airport rates and charges and revenue diversion impose particular obligations on the County that preclude an analogy to other developers and land use projects within the County. Federal restrictions on the fees that may be charged to airport users preempt any contrary County ordinances on impact fees.

One way to consider this question is to identify what fees the County can and cannot impose on airport users. At the most basic level, the County unquestionably can impose fees on air carriers to recover the County's costs to operate and maintain the airfield and airport. These costs typically include landing fees, rent for land and terminal space, and fees on fuel dispensed at the airport. The County also may impose fees on airport users to recover the County's costs to make capital improvements. All of these fees must be reasonable and nondiscriminatory. Whether imposed to cover operation and maintenance costs or capital improvement costs, the County generally must endeavor to impose fees on airport users in rough proportion to costs attributable to those users.

"Mitigation fees" generally can be assessed in two circumstances. If, during the environmental review and permitting process, the County were required by a regulatory agency (*e.g.*, the FAA or the State of Washington) to mitigate the impacts of a project, the County could pass the costs of mitigation to airport users along with other costs of construction. In addition, an airport proprietor can establish a noise compatibility program that includes noise mitigation within certain limits in surrounding neighborhoods and pass the costs of such mitigation on to airport users. Although airport proprietors seldom attempt to allocate such costs in direct proportion to an airport user's contribution to noise exposure, an airport proprietor can attempt to do so.

The County cannot impose a mitigation fee indirectly by attempting to tax airline passengers.⁸² Today, passenger "head taxes" are strictly limited by federal law to the imposition of a Passenger Facility Charge ("PFC") on emplaning passengers served by air carriers of between \$1 and \$4.50 per passenger.⁸³ The PFC statute and regulations prescribe the specific uses of passenger facility revenue, which include noise mitigation.⁸⁴ The County would be required to obtain FAA

⁸² *Id.* § 40116(b).

⁸³ *Id.* § 40117.

⁸⁴ *Id.* § 40117(d).

approval to impose, collect and use PFCs for particular projects and uses. The County cannot levy any other fees on a per-passenger basis.

Another important constraint is that the County cannot “divert” airport revenue for non-airport purposes.⁸⁵ As a consequence, the County may not impose a “mitigation fee” (or use a portion of the proceeds from other fees) to pay for general municipal functions such as garbage disposal, libraries and parks. The County can use airport revenue to compensate only for municipal expenses directly attributable to the airport, such as police and fire services provided by the County at the airport.⁸⁶ As a result, the County would not be able to impose a fee on air carriers if the proceeds of such fee are used for general municipal purposes or for governmental functions that are unrelated to the Airport.

At commercial service airports, air carriers do not often themselves undertake large capital improvement projects for such things as terminals, concourses, gates, ramp and apron, taxiways and runways. Rather, there typically are arrangements made by which air carriers fund a portion of a capital project built by the airport proprietor using a combination of funding sources. In the event that an air carrier did make capital improvements, the County could impose mitigation fees on the new development, but, here again, only to the extent that the fee corresponds to an airport-related expense incurred by the County.

D. Does federal law limit a local government airport proprietor and operator’s efforts to encourage or discourage air passenger service? If so, how and to what extent?

Short Answer: Federal law imposes severe constraints on the degree to which airport proprietors can influence air passenger service through financial incentives and disincentives. Federal law allows somewhat more flexibility for financial and other incentives than it does for disincentives.

There are two basic mechanisms by which the County can effectively encourage or discourage air passenger service: (1) control over capital improvements, and (2) financial incentives and disincentives. Both mechanisms are subject to constraints imposed by federal law and regulations and FAA policies. While the County is unquestionably free to continue to make statements of policy such as those reflected in the MRD Document about the role of the Airport, we consider herein other actions that would have a greater direct effect on airline behavior.

As explained in Section III above, airport proprietors have considerable discretion in deciding whether and when to make capital improvements. Equally important for present purposes, airport proprietors generally can decide on the precise nature and scope of the capital improvements. Indeed, airport users typically are responsible for reimbursing an airport

⁸⁵ *Id.* §§ 47107(b) and 47133.

⁸⁶ There has been considerable debate in recent years about whether airport proprietors can contribute to the cost of roadway improvements surrounding the airport to mitigate the traffic impacts of airport development and expansion. Here again, these expenses may be permissible if directly connected to airport operations.

proprietor for its costs to build new projects serving those users even if the users consider such projects to be imprudent and unnecessary.

One way for the County to encourage air passenger service is to build a state-of-the-art air passenger terminal and associated support facilities. However, doing so is far from certain to attract one or more air carriers. There are several airports around the country (*e.g.*, Williams Gateway in Arizona and Mid-America Airport near St. Louis) with fully operational terminals with no or very limited passenger service. It generally is considered imprudent to invest in such facilities without strong evidence of demand for passenger service and intent by an air carrier to serve the demand.

Conversely, the County can discourage air passenger service by declining to build a passenger terminal or to refuse to spend County funds to build supporting infrastructure for projects undertaken by others. This approach may not be completely effective. Some level of passenger service can be conducted directly from airport hangars or aprons.⁸⁷ Further, the FAA might find that the County's refusal to provide even basic facilities to accommodate an air carrier violates the grant assurances. This is particularly likely in the event that an air carrier makes a specific proposal and is willing to compensate the County for the cost of the terminal and/or contribute to the cost of interim facilities until a terminal is constructed.

The County would also have some control over the level of passenger activity by virtue of its design of the passenger terminal and associated facilities. There are several recognized constraints on the efficient movement of passengers through an airport, including such factors as the number of gates, the size of passenger hold-rooms, the size of the baggage claim area, the length of curb space for passenger drop-off and pick-up, the number of vehicle parking spaces, proximity of those parking spaces to the terminal, and parking fees. Individually and in combination, these factors may greatly constrain the level of passenger activity. The County thus might decide to build a passenger terminal and other facilities, but only design those facilities to accommodate a particular level of activity.

Yet, this too is imperfect, as evidenced by the numerous airports across the country with terminal facilities that are far too small to accommodate the actual level of activity. Air carriers have shown remarkable ingenuity in using under-sized terminal facilities far beyond their optimal capacity. This is attributable in part to improved efficiency by airlines in gate utilization. Equally important, the concept of airport capacity is somewhat of a misnomer, since the most common effect of growth beyond apparent physical capacity is simply delay, rather than an outright inability to serve more flights.

⁸⁷ New security requirements enacted after the terrorist attacks on September 11, 2001, impose requirements on airport proprietors to maintain security programs based in large part on the type of aircraft operations at the airport. See 49 C.F.R. § 1542.101(a). The security requirements have somewhat limited the extent to which air carriers can operate outside a passenger terminal. More generally, it presently is unclear whether an airport proprietor could effectively preclude passenger service simply by refusing to prepare and implement the requisite security plan to accommodate the particular use, in much the same way that an airport proprietor could refuse to seek and obtain an Airport Operating Certificate.

The second mechanism for encouraging or discouraging passenger service is provision of financial incentives and disincentives. To encourage passenger service, the County can use airport revenue to promote and market the airport. In addition, the County can develop a fee structure that minimizes costs to airlines, so long as other airport users are not thereby charged an unreasonably higher amount to essentially subsidize air passenger service. In addition, the County can temporarily waive fees and offer other discounts and incentives to encourage an air carrier to begin passenger service. The County *cannot* use airport revenue to provide direct subsidies and generally cannot offer financial incentives to only one airline. Virtually all of these constraints relate to the use of airport revenue; the County has considerably greater latitude in using its general fund moneys (*i.e.*, non-airport revenues) or other revenue not generated on the Airport to, for example, subsidize air carrier service. The County would remain subject to the grant assurances even in its use of non-airport revenue.

In contrast, the County's ability to create financial disincentives that might discourage air passenger service is rather limited. The fees imposed on air carriers must be reasonable and nondiscriminatory and generally must correspond to the County's costs to operate, maintain and improve the Airport. While the County has some greater latitude in imposing costs to use a passenger terminal than it does in imposing costs to use the airfield, the County's authority is not unfettered. In particular, the County could not simply decide to impose relatively higher fees for those aircraft operations that it perceives to be undesirable or contrary to County policy. As evidenced in the cases cited above, the FAA has found such actions to constitute violations of the grant assurances and federal law.

E. **Once air passenger service begins at a particular level of service, must the local government airport proprietor and operator allow additional and more air carrier service to any extent requested by any air carrier? May the airport proprietor/operator limit service to a particular level? If so, how and to what extent?**

Short Answer: In general, an airport proprietor must attempt to accommodate new entrant air carriers once it has opened the airport to air passenger service. A mandatory cap or limit on operations or passengers would be subject to ANCA and Part 161, with limited exceptions. Airport proprietors typically influence the level of passenger activity through their control over capital improvements.

If the County builds the facilities to accommodate airlines and commercial passengers and obtains the requisite class designation for its Airport Operating Certificate, it would be extremely difficult to impose any kind of mandatory cap or ceiling on the level of commercial passenger operations. Such a restriction, whether structured as a cap on passengers, a cap on operations, a noise budget (*i.e.*, a way to convert noise into a commodity and allocate it among airport users) or some other form of ceiling on operations, would constitute a noise or access restriction subject to ANCA and Part 161. The concomitant substantive and procedural requirements are explained above.

In addition to the grant assurance requiring reasonable access, the grant assurances and a separate federal statute prohibit airport proprietors from granting an “exclusive right” to any aeronautical user of an airport.⁸⁸ Consequently, the County could not directly or indirectly grant a monopoly to a single airline as a means of controlling passenger activity.

This issue has received considerable attention in recent years as airlines have attempted to reduce competition at individual airports in order to protect market share and maintain control over pricing. Although federal law delegates enforcement authority to the Department of Transportation to guard against so-called predatory behavior by airlines,⁸⁹ the FAA has committed to use its enforcement authority over airport proprietors to ensure that proprietors are not stifling competition.

The FAA summarized its position on the applicable legal standards in a 1999 study entitled, “Airport Business Practices and Their Impact on Airline Competition.” While this study reflects agency policy and was not itself an adjudication or rulemaking, it evidences the position the agency would take in an enforcement action or other litigation.

As a general rule, an airport operator may not directly or indirectly ban access to an airport by an otherwise qualified air carrier operator. To prevent or impede a carrier’s service at an airport is inconsistent with the airport’s contractual grant assurances to provide reasonable and not unjustly discriminatory access to the airport and not to grant an exclusive right at the airport. Moreover, the Airline Deregulation Act of 1978 (Pub. L. No. 95-504, 92 Stat. 1705, 1708 (1978)) prohibits a state or local government’s regulation of an air carrier’s rates, routes, or services. An action by an airport operator to unreasonably or discriminatorily deny or hinder access to air carriers effectively regulates their routes, contrary to the federal preemption authority over rates, routes, and services.

...

Airport proprietors may exercise their proprietary rights and powers, but these rights are circumscribed. They must rationally and demonstrably relate to protecting the safe and efficient operation of the airport or relieving noise or congestion at the airport. Exercise of proprietary rights must be reasonable, nonarbitrary, nondiscriminatory, and justified. They may not unduly burden interstate commerce or be used as a proxy for unjustifiably prohibiting new entry or unreasonably protecting

⁸⁸ 49 U.S.C. § 47107(a)(4); 49 U.S.C. § 40103(e).

⁸⁹ *Id.* § 41712.

incumbents, or for regulating an air carrier's routes inconsistent with federal preemption.⁹⁰

F. What level of scheduled commercial air service, if any, is compatible with a Part 139 certification of Paine Field that would also allow Boeing and Goodrich to continue their activities?

Short Answer: Three of the four classes of Airport Operating Certificates would permit scheduled passenger service in addition to continued operations by Boeing and Goodrich: (1) Paine Field's present Class IV designation permits scheduled operations in aircraft with 9 or fewer seats; (2) Class II designation would permit scheduled operations in aircraft with 10 to 30 seats; and (3) Class I designation would permit scheduled operations in aircraft of any size.

Paine Field presently is designated as Class IV under the applicable federal regulations on Airport Operating Certificates.⁹¹ This is a limited class designation and permits "unscheduled passenger operations of large air carrier aircraft."⁹² Equally important, "A Class IV airport cannot serve scheduled large or small air carrier aircraft."⁹³

We are not certain at this time whether *any* class of Airport Operating Certificate is necessary to accommodate Boeing and Goodrich. Although we would need to learn more about the particular activities of these two companies at Paine Field, their operations do not appear to be "unscheduled operations" under the FAA regulations.⁹⁴ Although the County-Boeing agreement may require the County to maintain the Airport in a particular manner, these requirements seemingly can be satisfied without an Airport Operating Certificate.

Further, some level of passenger service can occur without an Airport Operating Certificate. Specifically, the statute only requires that airport proprietors maintain a certificate to accommodate scheduled passenger service by aircraft designed for more than 9 passenger seats and unscheduled passenger service by aircraft designed for at least 31 passenger seats.⁹⁵ Passenger service in smaller aircraft does not necessitate an Airport Operating Certificate and could occur today without any change in class designation.

Assuming that operations by Boeing and Goodrich are considered unscheduled operations subject to the FAA regulations, there are two class designations that also would permit some level of scheduled passenger activity. Class I designation permits scheduled operations by

⁹⁰ Airport Business Practices and Their Impact on Airline Competition at 13-14.

⁹¹ 14 C.F.R. § 139.5.

⁹² Id.

⁹³ Id.

⁹⁴ Id. ("Unscheduled operation mean any common carriage passenger-carrying operation for compensation or hire, using aircraft designed for at least 31 passenger seats, conducted by an air carrier for which the departure time, departure location, and arrival location are specifically negotiated with the customer or the customer's representative. It includes any passenger-carrying supplemental operation conduct under 14 CFR part 121 and any passenger-carrying public charter operation conducted under 14 CFR part 380.").

⁹⁵ 49 U.S.C. § 44706(a).

aircraft designed for more than 9 passenger seats (in addition to unscheduled operations by large aircraft), and Class II designation permits scheduled operations by aircraft designed for between 10 and 30 seats (in addition to unscheduled operations by large aircraft).⁹⁶ Class III designation would not permit unscheduled operations by large aircraft.

The requirements imposed on airport proprietors are rather uniform across the different class designations; therefore, the change in class designation likely would not have a significant effect on the County's operation of the Airport.⁹⁷ In addition, the requirements for aircraft rescue and firefighting are based on the size of the largest aircraft using an airport on a regular basis.⁹⁸ Here again, the introduction of passenger service would not likely effect the County's current activities.

⁹⁶ 14 C.F.R. § 139.5.

⁹⁷ Id. § 139.203.

⁹⁸ Id. § 139.315.

COUNTY COUNCIL ACTIONS

Motion 89-059 (February 21, 1989)

Reaffirmed the 1978 MRD "General Aviation role" and rejected allowing freight, even with strict noise controls

Joint Resolution 92-010 (March 18, 1992)

Reaffirmed the MRD Document and rejected a Puget Sound Regional Council flight plan projects draft report to consider major commercial airline service at Paine Field or Arlington

Joint Resolution 94-013 (September 21, 1994)

Reaffirmed the County's commitment to the existing role of Paine Field and discouraged the Puget Sound Regional Council from including Paine Field from the commercial airline sites;

Motion 01-255 (2001)

Adopted the regional low forecast because, "it is most consistent with the Master plan and finds that it is most consistent with existing County policy stated in the 1978/1979 MRD" and reaffirmed General Aviation Role.

Motion 02-453 (2002)

Motion Accepting Snohomish County Economic Stimulus Action Plan. Item III(C) (2) "Explore regional air service market at Paine Field".



CO00026251

**SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON**

MOTION No. 89- 059

**REAFFIRMING THE GENERAL AVIATION ROLE
FOR DEVELOPMENT OF PAINE FIELD
AS ESTABLISHED IN THE 1978 MEDIATED AGREEMENT**

WHEREAS, on April 11, 1978 the Snohomish County Commissioners adopted by Resolution the "General Aviation" role for development of Paine Field, subject to periodic review to evaluate changes in technology and area development; and

WHEREAS, on January 23, 1979 the Snohomish County Commissioners adopted by Resolution the recommendations of the Paine Field Mediation Panel to further guide the development of the county airport in accord with the established "General Aviation" role; and

WHEREAS, the Mediated Agreement stipulated that "development of Paine Field will be predicated on the recognition that it resides within an established community and will be sensitive to the quality of life for which surrounding residents strive"; and

WHEREAS, the Mediated Agreement proposed that "both the residential community and the Airport Commission will work together to develop a meaningful system of continued resident, pilot and business-interest dialogue in the development of the field"; and

WHEREAS, current county policy of "General Aviation" designation encourages the development of aircraft-related industries, business and corporate aviation, public service aviation, air taxi and commuter service; and

WHEREAS, the present county policy of "General Aviation" specifically discourages the expansion or new development of supplemental/charter air passenger service, large transport crew training operations, air cargo aviation and military aviation because of their inconsistency with the airport's primary aviation role; and

WHEREAS, the Snohomish County Executive created a "Paine Field Task Force" to assist him in the review the "General Aviation" role for Paine Field; and

WHEREAS, the Executive's Paine Field Task Force recommended a "Modified General Aviation Role" which would allow continuation or expansion of "light aircraft, aircraft related industries, business and corporate aviation, public service aviation, air taxi, commuter and air cargo service provided they operate within the noise budget and limits set for single event noise, operating hours, and short term noise"; and

WHEREAS, the Executive's Paine Field Task Force recommended that "large aircraft crew training operations; military aviation; and any aircraft not meeting the limits of single event noise, operating hours and short term noise limitations" be strongly discouraged at the county airport; and

WHEREAS, on July 19, 1988 the Snohomish County Executive transmitted the recommendations for the role of Paine Field to the Council, accompanied with the findings and conclusions of the Paine Field Task Force; and

WHEREAS, the Council conducted public hearings on December 19, 1988 and on January 9 and February 6 of 1989 to obtain testimony regarding the recommendations of the Paine Field Task Force.

FINDINGS OF FACT AND CONCLUSIONS

1. When the Board of County Commissioners adopted the "General Aviation" role for Paine Field in April, 1978, they included instructions for the "periodic review" of airport use. The Executive has appropriately initiated a "periodic review" by means of his Paine Field Task Force in accordance with established county policy.
2. The Paine Field airport is an important asset to the county, and to the growing and diversified high-technology developments in south county. County government must balance the county-wide benefits of the airport with the property rights of the individuals in the Paine Field community.
3. On the basis of public testimony, and from technical information provided by county airport staff, the Council has concluded that:
 - A. Testimony has not successfully demonstrated the need or economic viability for a modified "Air Cargo" role.
 - B. Conversely, testimony shows that the airport can be successfully sustained under the existing "General Aviation" role.
 - C. Changes in the "General Aviation" role which specifically encourage night-time operations conflict with established county land use designations in the Paine Field area.

4. The Task Force determined that "Army helicopter noise is an unreasonable burden on the community and every effort should be made to relocate the existing support facility". The 1978 Mediated Agreement also discouraged the operation of military craft at Paine Field. In testimony before the Council, Army representatives stated that there are no plans for increasing "either the number of helicopter craft or the number of hours flown by the craft".
5. During the three Council hearings, several speakers urged the Council to reject the findings of the Task Force and not allow Paine Field to evolve into a major metropolitan airport like Seattle-Tacoma International. The Council observes that the Task Force never intended any such "Sea-Tac North" concept. In fact, the Task Force recommended that "the County Council should publicly state that Paine Field will not become a major air carrier facility or a primary air carrier facility like Sea-Tac". The Snohomish County Council has consistently opposed plans for expansion of Paine Field into a "Sea-Tac" type of facility. The Council has served notice with both the FAA and with the Puget Sound Council of Governments that Paine Field shall remain a county "General Aviation" facility.
6. Despite the length and breadth of public testimony, only two policy amendments addressed in the "General Aviation" designations of the 1978 Paine Field Mediated Agreement were broached by the Task Force: first, whether or not to permit air cargo activities; and second, the exclusion of military aircraft. The Task Force recommended that air cargo activities, which were discouraged in the 1978 Mediated Agreement, now be allowed. The Task Force reaffirmed the recommendations of the 1978 Mediated Agreement to discourage military aircraft at Paine Field (see Finding No. 4 above). Many other comments related to airport administration, the need for an effective noise abatement program and the establishment of a sensitive and open community involvement process were recorded in public testimony.
7. Area residents were supportive of the Paine Field Annual Air Show and other such community sponsored events which last only for short periods of time throughout the year.

8. The Council has already singled out the airport as an area for legislative oversight. In adopting the 1989 airport budget, the Council included three specific instructions to the County Executive to establish a noise abatement program and to monitor new airport developments for consistency with the general aviation role of Paine Field.
 - A. The Council required the Airport staff to prepare a comprehensive noise mitigation program by February 1, 1989. The noise mitigation program must also include an inventory of especially sensitive areas and the development of guidelines for pilots to reduce aircraft noise.
 - B. The Council instructed the Executive to submit a detailed capital improvement program plan on or before March 1, 1989.
 - C. The third proviso instructs the Executive to submit a detailed marketing plan for the use of airport facilities on or before May 1, 1989.

DECISION OF THE COUNCIL

NOW, THEREFORE, THE SNOHOMISH COUNTY COUNCIL does hereby affirm the "General Aviation" role for the Paine Field Airport as established in the 1978-1979 Paine Field Mediated Agreement. The "General Aviation" designation encourages the development of aircraft-related industries, business and corporate aviation, public service aviation, air taxi and commuter service. The "General Aviation" policy specifically discourages the continuation, expansion or new development of supplemental/charter air passenger service, large transport crew training operations, air cargo aviation and military aviation because of their potential inconsistency with the airport's primary aviation role and in consideration of the quality of life for which surrounding residents strive. The "General Aviation" role precludes expansion of Paine Field into a major metropolitan air carrier facility or primary air carrier facility.

Dated this 21st day of February, 1989.


Chairman

ATTEST:


Clerk of the Council, *asst.*

D-1



CO00024631

**SNOHOMISH COUNTY EXECUTIVE
SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON
JOINT RESOLUTION NO. 92-010**

**A JOINT RESOLUTION TO OPPOSE THE RECOMMENDATIONS OF
THE FLIGHT PLAN STUDY**

WHEREAS on April 11, 1978, the Snohomish County Commissioners adopted by resolution the "Role for Development of Paine Field", and in 1979, the Commissioners further adopted by resolution the recommendation of the Paine Field Mediation Panel in accordance with the established "General Aviation" role; and

WHEREAS this role was reaffirmed by Snohomish County in 1989.

WHEREAS based on the 1978-79 Mediated Role determination, Snohomish County allowed Industrial Zoning around Paine Field to be changed to Single and Multiple Family Housing; and

WHEREAS the Mediated Role determination stipulated that "development of Paine Field will be predicated on the recognition that it resides within an established community and will be sensitive to the quality of life of the surrounding community"; and

WHEREAS development of Paine Field as a major commercial airport would have significant negative impacts upon the surrounding community; and

WHEREAS there are significant flaws and errors in the Flight Plan Project Draft Final Report identified in the Snohomish County response to the Draft Final Report. These flaws and errors are of such a magnitude so to invalidate the conclusions reached.

NOW, THEREFORE, BE IT RESOLVED, the Snohomish County Executive and Snohomish County Council adopts the following:

1. The County opposes, and will continue to oppose, the recommendation of the Flight Plan Project Draft Final Report to begin major commercial airline service at Paine Field or Arlington.
2. The County urges the rejection of the report based on the significant flaws and errors contained within it.

3. The County reaffirms its commitment to the 1978-79 Mediated Role determination.

PASSED this 18th day of March, 1992.

Snohomish County Executive
Snohomish County Council
Snohomish County, Washington

Li McLaughlin
COUNCIL CHAIR
William D. ...
COUNTY EXECUTIVE

ATTEST:

Sheila McCallister
Clerk of the Council

D-26

**SNOHOMISH COUNTY EXECUTIVE
SNOHOMISH COUNTY COUNCIL**



Joint Resolution No. 94-013

**A Joint Resolution Reaffirming
Snohomish County's Commitment To
Preserving Paine Field's Existing Aviation Role**

WHEREAS, the Puget Sound Regional Council (PSRC) has previously determined that Paine Field is not an appropriate site for the location of a major commercial airport for a variety of physical and environmental reasons, and

WHEREAS, the PSRC is being prompted to reconsider its previous decision on the status of Paine Field, and

WHEREAS, on April 11, 1978, the Snohomish County Commissioners adopted by resolution the "Role for Development of Paine Field," and in 1979, further adopted by resolution the recommendation of the Paine Field Mediation Panel in accordance with the "General Aviation" role for that public facility, a role which was subsequently reaffirmed by Snohomish County in 1989, and again in 1992, and

WHEREAS, based on the 1978-79 Mediated Role determination, and the subsequent reaffirmations, Snohomish County allowed and has continued to allow the original industrial zoning around Paine Field to be changed to single and multiple family zoning, with the result that a substantial residential community has developed in the area based on the County's promise to protect the community from adverse airport impacts, specifically the use of Paine Field as a major commercial airport, and

WHEREAS, the Paine Field area, based on the 1978-79 Mediated Role determination, has also developed as a major American industrial center, the manufacturing headquarters to our nation's largest exporter, the Boeing Company, as well as numerous other related aviation industries, all providing regional employment to over 40,000 men and women, and

WHEREAS, the integrity of a democratically-elected government's commitment to the constituency it serves is the absolute foundation for a free and just society, and that any abridgment of the promises made by

government to citizens threatens the very substance of a civilized society,
and

WHEREAS, the planning and financing of all regional facilities are
contingent upon the credibility of long-term government decision making.

NOW, THEREFORE, BE IT RESOLVED that the Snohomish County
Executive and Council do jointly reaffirm our county's commitment to
preserving the existing aviation role of Paine Field, and urge the PSRC to
stand by its previous and valid decision to exclude Paine Field from among
potential commercial airport sites.

APPROVED THIS 21ST DAY OF SEPTEMBER, 1994

Bob Drewel

Bob Drewel
County Executive

Karen Miller

Karen Miller
County Council Chair

John Garner

John Garner
County Council

Richard C Johnson

Richard Johnson
County Council

Liz McLaughlin

Liz McLaughlin
County Council

Al Schweppe

Al Schweppe
County Council

Barbara Siboni

ATTEST: Clerk of the Council, *Asst.*



CO00005045

SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON
MOTION NO. 01-255

**A MOTION ADOPTING THE CONSULTANT RECOMMENDED FORECAST
FOR FUTURE AVIATION ACTIVITY AT PAINE FIELD
AND REAFFIRMING THE GENERAL AVIATION ROLE FOR PAINE FIELD**

WHEREAS, The County conducted a study and adopted an Airport Master Plan for Paine Field in 1995 and has since approved revisions to the Airport Layout Plan section of the Airport Master Plan in 1997 and 2000; and

WHEREAS, The County accepted federal grant funds to conduct a study to update the Paine Field Airport Master Plan, and hired a consulting team headed by Barnard Dunkelberg and Company to conduct the study; and

WHEREAS, the consultants have conducted the preliminary phases of the study using extensive public input through public meetings and a 25 member advisory committee; and

WHEREAS, the Airport Master Plan Study has reviewed an inventory of present airport facilities and developed forecasts for four different aviation activity scenarios; and

WHEREAS, the FAA requires that Master Plans include an unconstrained forecast of aviation activities based primarily on analysis of the population within a given area and trends in their use of aviation facilities with little review of potential market constraints; and

WHEREAS, the County and consultants recognize that market conditions do exist which may limit demand for service at Paine Field, including but not limited to:

- 1) Initial introduction of any commuter service is likely to be to a limited number of locations.
- 2) Previous experience with commuter service from Paine Field to a limited number of destinations has indicated the historical demand for service in such circumstances to be very low.
- 3) Ground access constraints in the Puget Sound area currently impact demand for services and will continue to do so.

WHEREAS, the consultants have recommended that the Regional Low Forecast for future aviation activity at Paine Field be adopted; and

WHEREAS, the Regional Low Forecast is most consistent with the County's existing General Aviation Role policy set forth in the 1978/79 Mediated Role Determination for Paine Field; and

WHEREAS, the forecast also identified long term (50 year) based aircraft demand and determined it could be accommodated with the areas that are at or close to runway elevation grade; Thus the need for a large area of the west side to accommodate future general aviation based aircraft storage is forecast to be minimal; and

WHEREAS, the adoption of forecasts is necessary for the study to move forward into the next phases of addressing facility requirements, constraints, impacts and mitigations for airport development over the 20 year planning time frame; and

WHEREAS, the County and consultants recognize that these unconstrained forecasts are necessary for FAA approved Master Planning purposes, but that real constraints such as those noted above do exist and will impact the actual demand for passenger service at Paine Field.

NOW THEREFORE ON MOTION; The Snohomish County Council approves the Airport Master Plan study's Forecasts of Aviation Activity working paper and adopts the Regional Low Forecast for aviation activity at Paine Field over the next 20 years, finding that it is most consistent with the existing County policy stated in the 1978/79 Mediated Role Determination. The Council reaffirms the General Aviation Role's objective to retain and enhance light aircraft general aviation as the dominant aeronautical activity at Paine Field while encouraging the continuation and expansion of aircraft related industries, business and corporate aviation, public service aviation, air taxi and commuter service, and strongly discouraging expansion beyond 1978 levels of supplemental / charter air passenger service (per 14 CFR Part 121 SFAR 38-2 pp6), large transport crew training operations, air cargo aviation and military aviation while remaining compliant with the covenants in deeds and grants of the United States Government.

DATED this 25th day of July 2001.

SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON



Chairperson, County Council

ATTEST:



Clerk of the Council

**SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON**

MOTION NO. 02-453

**MOTION ACCEPTING SNOHOMISH COUNTY
ECONOMIC STIMULUS ACTION PLAN**

WHEREAS, on May 15, 2002, the County Council and Executive issued Joint Resolution No. 02-016 *Concerning Intent to Develop a Local Economic Stimulus Plan for the Preservation and Enhancement of the Employment Base in Snohomish County*; and

WHEREAS, through that action, Snohomish County officially recognized the economic challenges currently faced by the county and the region, and committed to develop and participate in a multi-pronged, proactive program to "attract new business and retain the vitality of existing businesses, while at the same time continuing to provide efficient, comprehensive and consistent services to its residents"; and

WHEREAS, the Economic Stimulus Plan Task Force, representing the Council, Executive and other elected officials and department heads, has worked since June 1, 2002, to develop the Economic Stimulus Action Plan; and

WHEREAS, the Action Plan includes recommended plan elements and performance measures for first-phase implementation within 90 days to help provide a quick boost to the local economy; and

WHEREAS, the Council may consider each of the elements of the Action Plan, in addition to new and alternate proposals that may come forward in the weeks and months ahead;

NOW, THEREFORE, ON MOTION, the Snohomish County Council hereby accepts the Economic Stimulus Action Plan and expresses its gratitude to the members of the Economic Stimulus Plan Task Force for their hard work and diligence in creating a product that will benefit the Snohomish County economy and, ultimately, the community. The Council further requests that, consistent with the Joint Resolution, monthly progress reports be prepared and transmitted to the Council, members of the Task Force, and the public so as to monitor performance in implementing the Action Plan.

PASSED this 23rd day of October, 2002.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

/s/ Gary N. Nelson
Gary Nelson, Council Chair

ATTEST:

/s/ Barbara Sikorski
Asst. Clerk of the Council

D-10



**SNOHOMISH COUNTY ECONOMIC STIMULUS ACTION PLAN
SUMMARY OF ELEMENTS**

- I. Permit and Regulatory Enhancements
 - A. Stimulate Lot Creation and New Development Applications
 - (1) Adopt Lot-Size Averaging Ordinance
 - (2) Adopt Appeals Fee Increase
 - (3) Amend Grading Exemption Thresholds
 - (4) Amend PRD Code to Increase Usage
 - (5) Adopt 9 Lot Short Plats
 - (6) Adopt Urban Centers package
 - (7) Review SEPA Exemptions Thresholds

 - B. Improve Permit Processing and Work Flow Efficiencies
 - (1) Adopt Uniform Development Code
 - (2) Complete and implement recommendation of Permit Performance Audit
 - (3) Move acceptance of Final Plat to Council Consent Agenda
 - (4) Revise SFR processes, including inspections
 - (5) Conduct review of EDDS
 - (6) Complete Drainage Needs Report/tools
 - (7) Seek PAO advice on minimum standards
 - (8) Require written approval of Administrative Policies
 - (9) Improve clarity of permit review letters
 - (10) Design automated system for indexing decisions

- II. Job Retention and Recruitment Initiatives
 - A. Participate in Public/Private Strategies
 - (1) Support continued Competitiveness Council initiatives
 - (2) Participate in state Sonic Cruiser Retention Team
 - (3) Support EDC Business Clusters Recruitment Program
 - (4) Seek funding for Economic Development Strategy for farmlands/agriculture
 - (5) Support Evergreen Crescent Initiative
 - (6) Assume leadership role for Regional Transportation Funding Package

ECONOMIC STIMULUS PLAN
SUMMARY OF ELEMENTS

Page Two

- (7) Support state-wide transportation funding plans
- (8) Explore scope of Economic Impact Analysis

III. Capital Improvement Project (Early Starts & Pump Priming)

A. Carryout 2002 CIP Projects

**SUMMARY CAPITAL IMPROVEMENT
PROGRAM LIST – 2002 & 2003¹**

Capital Expenditure by Category & Type

Category	2002	2003
General Government Facilities ²	\$ 18,180,202	\$ 30,816,156
General Government Equipment	3,099,079	1,809,164
Parks & Recreation Facilities	19,412,134	5,179,252
Parks & Recreation Land	6,490,708	2,375,411
Law Enforcement Facilities	28,584,299	59,338,386
REET Debt Service & Reserves	4,893,588	4,869,698
Transportation – Facilities	49,034,000	58,109,000
Surface Water – Facilities	13,960,800	6,045,000
Solid Waste – Facilities	28,270,397	5,396,000
Airport – Facilities	9,875,000	13,275,000
Airport – Equipment	600,000	--
TOTAL: All Items	\$ 182,400,271	\$ 187,213,067

B. Explore Potential New Projects/Enhancements

- (1) New road projects tied to state/regional funding packages
- (2) HCP approach for DPW projects
- (3) Implement ESA Road Plank
- (4) Accelerate Solid Waste Construction Projects

¹ Source: Year 2002-2007 Capital Improvement Program, November 2001.

² Reflects two-year spend-down for CRI. Total through 2004 is \$168.4 million.

ECONOMIC STIMULUS PLAN
SUMMARY OF ELEMENTS

Page Three

- (5) Initiate process to surplus 300 – 400 ac Cathcart Site for Master Planned Development
- (6) Review and surplus major parcels of Road property

C. Joint Public/Private Ventures

- (1) Public Facilities District projects
- (2) Explore regional air service market at Paine Field
- (3) Prepare Paine Field programmatic EIS
- (4) Support National Flight Interpretive Center/Museum

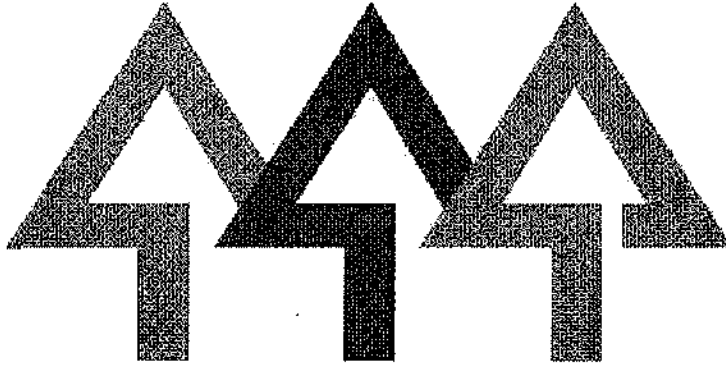
IV. Business Customer Service Enhancements

A. Customer Service Workgroup (CRI) – County-wide

- (1) Inventory (via Electronic Survey Instrument) current status by property-related departments
- (2) Develop model for new Customer Service Center (one-stop/co-location)
- (3) Provide public access computers at customer service centers
- (4) Reduce wait times at all customer service counters
- (5) Establish customer comment/feedback mechanisms
 - (a) Inventory current activities
 - (b) Recommend new
- (6) Create Customer Service standards and performance measures
- (7) Maintain and update websites
 - (a) Obtain DIS explanation of access/weekend coverage
 - (b) Issue E.O./DIS order on weekly web site content
- (8) Auditor customer service enhancements

B. Permit Customer Service Improvements – PDS/DPW

- (1) Reduce permit applicant submittal wait times



**Snohomish County
Economic Stimulus Action Plan**

**Snohomish County Economic Stimulus Task Force
September 2002**

Snohomish County Economic Stimulus Task Force

Membership

Gary Nelson, County Council Chair, Task Force Co-Chair
Bob Drewel, County Executive, Task Force Co-Chair

John Koster, County Council Vice Chair
Gary Weikel, Deputy County Executive
Peter Hahn, Director of Public Works
Faith Lumsden, Director of Planning & Development Services

Invited Members:

Bob Terwilliger, Auditor
Gail Rauch, Assessor
Bob Dantini, Treasurer
Diane Libby, Chief Civil Deputy Prosecuting Attorney

Participating Members:

Dan Clements – Director, Finance Department
Dave Waggoner – Manager, Paine Field, Snohomish County Airport
Judith Stoloff – Planning & Development Services, Long Range
Planning

Staff Support:

Steve Holt, Executive Director
John Chelminiak, Council Administrator

The Need for a Task Force

On May 15, 2002, the Snohomish County Council unanimously passed a joint resolution forming an Economic Stimulus Task Force. The County Executive signed the resolution that same day. The Task Force was formed at the urging of many in the business community as a response to the national economic downturn that had begun in 2000 and became more dramatic following the terrorist attacks on September 11, 2001.

The Council, Executive, and other elected officials recognized the effect of rising unemployment in the community, the strong role that Snohomish County business plays in the state's economy, and the role Snohomish County government plays as an investor in economic development. Snohomish County is one of the largest employers in the area, invests heavily in construction infrastructure projects from roads to the airport, and affects economic development through its regulatory practices.

Snohomish County is one of the region's largest employers, with more than 2,700 employees and a monthly payroll in excess of \$12.4 million. In addition, the county creates many more jobs and economic activity through its capital investment programs and partnerships with other governmental entities.

The County's 2002 capital budget totals some \$184 million, and an estimated \$741 million for the 2002-07 time frame. Major areas of capital spending for 2002 include: Roads- \$49 million, Solid Waste transfer stations- \$28.3 million, Parks- \$19.4 million, surface water- \$14 million, and Paine Field Airport- \$10.5 million. In addition, the County is involved in a four-year, \$168.4 million construction project on its downtown Everett campus. A new corrections facility, administration complex, and underground parking garage will be completed in 2004.

The role of the task force was not to adopt a long-range economic development plan. Rather, the task force brought together county elected leaders with department heads to find ways Snohomish County government could quickly assist in stimulating the local economy.

The Current Economic Climate

Snohomish County's economy is the second strongest in the state trailing only King County. Average income for Snohomish County residents is \$35,072. Eight percent of the state's non-agricultural jobs are located in Snohomish County. The county enjoys a strong manufacturing job base with Boeing and other high-tech manufacturers. Approximately 31 percent of manufacturing jobs in the four-county metropolitan area are in Snohomish County. And the number of aerospace jobs in Snohomish County equals the number in neighboring King

County. Many of those manufacturing jobs depend on a county -owned and - operated facility, Paine Field Airport.

During the 1990's, manufacturing continued to be the dominant industry. However, job growth in construction, government and military, and services helped bring more balance to the economy. The high tech corridor was the strong driver of private job growth. Government and military jobs doubled in the 90's, driven in part by major infrastructure investments such as Naval Station Everett and the University of Washington Bothell Campus.

While diversification has helped, Boeing still has a major impact on the county's economy. Boeing employment topped out in 1998 and resulting layoffs turned the unemployment picture around. After steady declines from a 1993 high of 7%, unemployment rates went down every year to a low of 3.1% in 1998. Since then, there has been a steady three-and-a-half year increase in unemployment. The rates hit 7.5% in April and May of 2002 and dropped slightly to 7.4% in June. However, news of approximately 600 more Boeing layoffs later in the year will continue to impact unemployment. The slowdown in air travel means production on Boeing planes is curtailed in the near future; in addition, Boeing Commercial Airplane President Alan Mulally recently told a meeting of elected officials that Boeing production would not return to its previous high levels.

The Work of the Task Force

The Task Force was formed with the concept of a rapid response. From its first meeting, the group was given 45 working days to produce its first report. The rather detailed resolution adopted by the Council provided the framework for the effort. The committee held its first meeting on June 13, 2002, and managed to accomplish its 45-day report in just two highly-focused sessions.

At its first meeting, the committee reviewed a number of internal elements to the plan and directed department directors and others to report back at its next meeting. The task force examined programs already underway and proposed new innovations and methods for speeding up planned projects.

At its second meeting, the Task Force identified and classified a total of 44 elements of an economic stimulus plan. Additional elements may be incorporated into the plan as they are identified. The range includes changes to the county's regulatory climate; direct investments in capital projects, programs to stimulate job creation and growth, and improvements to the way the county provide customer service. Many of the changes can be accomplished in the short term, while others will take longer but will have long-lasting impacts.

The detailed report following this summary includes four classifications:

- I. Job Retention and Recruitment – Public and Private

- II. Permit and Regulatory Enhancement
- III. Capital Improvements Projects (early starts and pump priming)
- IV. Business Customer Service Enhancements.

Highlights of the stimulus package by category include the following:

Job Retention and Recruitment – Public and Private

The county will continue to be a major player in the recruitment of the Boeing Sonic Cruiser or Boeing's next generation of aircraft. The county is committed to the prospect that if it is to be built, it will be built at Paine Field. The county will continue to send that message to Boeing, federal and state officials. It is committed to providing the climate necessary to provide the infrastructure and regulatory climate for production of the next generation of Boeing aircraft.

The county will continue to play a positive role in economic development efforts underway. These efforts target existing job centers including the high tech corridor, new opportunities in Snohomish County towns to provide jobs near residents, and economic stimulus of our farmland/agriculture communities. The county will continue to attempt to attract business cluster developments, such as biotechnology and others, to the tech corridor. The Evergreen Crescent initiative targets smaller cities and towns for economic opportunities. The county also will seek funding for the Economic Development Strategy for farmlands/agriculture.

Public sector and public-private partnerships are another important element. Paine Field's master plan includes possible development of an aircraft terminal, with an eye toward the retention of a regional air carrier. In addition, the completion of a programmatic environmental impact statement of manufacturing lands connected with Paine Field will help speed private investments by making future projects "permit ready". The airport has provided \$75,000 toward this effort.

County officials are playing important roles in seeking regional transportation solutions. Referendum 51, the Regional Transportation Investment District process, Sound Transit, and Community and Everett Transit all play important roles. Projects included in all of the above work programs would help solve transportation problems while creating thousands of construction jobs.

Permit and Regulatory Enhancements

The Executive and Council are working hard to improve the building process in Snohomish County to provide both predictability and protection. The ability to attract good jobs requires a housing base that is affordable and includes good amenities.

Legislation slated for Council consideration includes implementation of the nine-lot short plat law, a lot-size averaging ordinance, an urban centers package, and amendments to the PRD code to increase usage of this development tool.

Both the Executive and Council are committed to an understandable development process that avoids unnecessary delays while making certain laws and regulations are followed. A major element of this effort is underway with a performance audit of the permitting process. The Council and Executive will work toward implementation of the recommendations of the report when it becomes available this fall.

In addition, the county will work to clarify the permitting process. This work will include steps to improve the clarity of permit review letters, adoption and publication of written policies, an automated system of indexing regulatory decisions, and streamlining the Final Plat approval process.

Capital Improvement Projects (early starts and pump priming)

The county is a major investor in public infrastructure. On a yearly basis, the county invests tens of millions of dollars in road projects, drainage improvements, solid waste and surface water facilities.

Over the next three years, the county will prime the economic pump with its Campus Redevelopment Initiative. Demolition of structures begins this month as construction is poised to begin on a new jail and parking garage. Next will come a new administration building followed by the building of a public plaza and remodeling of the current administration building. The project totals almost \$170 million and will provide construction jobs, equipment and facility purchases, and tax revenue.

As mentioned above, the airport is engaged in the master planning process. In addition, nearly \$11 million in bonds were issued last year for airport improvements. These improvements should help make the airport an even more valuable economic development magnet.

Snohomish County's six-year capital improvement program totals slightly more three-quarters of a billion dollars. The single largest expenditure line item is one of the region's most important, road capacity projects. Over the next six-years, the county will spend \$131-million for improving capacity on county roads. If the Regional Transportation Investment District approves a construction plan in a May 2003 ballot issue, the investment in transportation infrastructure will increase dramatically.

The county's capital improvement plan for 2002 and 2003 includes a total of almost \$370 million in spending.

Category	2002	2003
General Government Facilities	\$18,180,212	\$30,816,156
General Government Buildings	3,099,079	1,809,164
Park & Recreation Facilities	19,412,134	5,179,252
Park & Recreation Land	6,490,708	2,375,411
Law Enforcement Facilities	28,584,299	59,338,386
REET Debt Service & Reserves	4,893,588	4,869,698
Transportation Facilities	49,034,000	58,109,900
Surface Water Facilities	13,960,800	6,045,000
Solid Waste Facilities	28,270,397	5,396,000
Airport Facilities	9,875,000	13,275,000
Airport Equipment	600,000	--
Total All Items	\$182,400,217	\$187,213,067

Business Customer Service Enhancements

As part of the Campus Redevelopment Initiative, the county is studying ways it can improve the way it does business with citizens. While a one-stop customer service lobby will have to wait for construction of the new building, some elements of the plan can be implemented more quickly, during construction.

The county will work to develop public access computers, to reduce wait times at counters, to provide better website information and interaction, and to establish customer comment and feedback forms. Many of the county's business activities relate to the region's economic climate, from the speedy transaction of real estate recordings to the application of building permits. Early implementation of new customer service standards will increase economic activity.

A major technological advance will take place this fall in one of the most important functions of county government, elections. Snohomish County will be the first county in the state to have vote at the polls electronic touch screen technology. The touch screen system is similar to a bank ATM and provides a fool-proof system for the voter.

The County Auditor, Bob Terwilliger, is managing this project among a number of technology advancement that are being made to the Auditor's office. Another project includes the electronic recording of documents such as real estate transactions. These so-called "smart documents" will be sent directly to the Auditor's office.

Treasurer Bob Dantini is also working to make it easier for citizens to access the services of his office. This includes web access to tax information, automatic checking withdrawal for tax payments and better methods for cash management of taxpayer payments.

Snohomish County's Role

Snohomish County has an important role to play in economic development. The county's elected leadership and department heads are committed to this effort. The county will be a leader in number of ways:

- Be a strong voice for economic development, new jobs, and economic diversity;
- Provide a regulatory climate that encourages the type of development needed to be a 21st century leader;
- Invest wisely in community in projects that improve quality of life and provide jobs;
- Work in smarter, better ways, to provide service to the citizens.

#

Economic Stimulus Plan	
Detail of Actions	
Action No:	III.C.2
Action Name:	Explore Regional Air Service at Paine Field
Lead Department:	Airport
Description of Action:	Assemble group of stakeholders to serve as advisory committee. Develop market study to validate & refine Master Plan forecast of regional demand. Consult with regional airlines to ascertain readiness of area to support regional operations. Initiate survey of local business to support a regional airline survey. Define Master Plan concepts for terminal requirements. Develop plans and budget estimates for terminal facilities. Investigate security requirements and costs necessary for regional passenger service.
Performance Measure:	Milestone:
	Scoping & action plan, inc. advisory committee 11/30/2002
	Council briefing 03/30/2003
	Council briefing 06/30/2003
	Final report to Council 09/30/2003
Category:	Capital Improvement Projects
Element:	Joint public/private ventures

Economic Stimulus Plan	
Detail of Actions	
Action No:	III.C.3
Action Name:	Prepare Paine Field Programmatic EIS
Lead Department:	Airport
Description of Action:	This project will result in presentation of planned action for future development at Paine Field. PDS & Paine Field staff have begun to define the project and prepare a specific project application.
Performance Measure:	Milestone:
Define project	09/30/2002
Hire EIS consultant team	
Publish draft & final EIS	
Prepare planned action ordinance, staff report	
County Council briefing	
County Council public hearing & action	
Category:	Capital Improvement Projects
Element:	Joint Public/Private Ventures

COMMUNITY PANEL

Members

The Hon. Don Doran, co-chair
The Hon. Ray Stephanson, co-chair
The Hon. Lori Kaiser
The Hon. Michelle Robles
The Hon. Gary Haakenson
Mr. Tom Gaffney
Mr. Tom Hoban

Mr. John Shaw
Mr. Hugh Townsend
Mr. Mark Wolken
Ms. A.J. Chase
Mr. Kevin Laverty

Mayor of the City of Mukilteo, 1998-2005³⁸
Mayor of the City of Everett, 2003-present
Mukilteo City Council member
Mountlake Terrace City Council member
Mayor of the City of Edmonds³⁹
Moss Adams (ret.)
Chief Executive Officer and Director of
Business Development, Coast Real Estate
Services
President, Stuchell Enterprises
President, Reid Middleton
President, Wolken and Associates
Arlington Airport Commission
Mukilteo School Board; NW Media
Relations, Verizon

Technical Advisers

Ms. Carol Key
Mr. Russ Keyes
Mr. Stephen Kiehl
Mr. Richard White
Mr. John Sibold

Federal Aviation Administration
Moss Bay Co.
Puget Sound Regional Council
The Boeing Company
Aviation Director, Washington State
Department of Transportation

³⁸ http://en.wikipedia.org/wiki/Mukilteo,_Washington

³⁹ Deanna Dawson, President of the Edmonds City Council, initially agreed to serve on the Panel. She stepped down when appointed a Snohomish County Executive Director by County Executive Aaron Reardon, and Mayor Garry Haakenson took her place.

MEETINGS

The community panel met on the following dates with the principal topics of discussion as described:

November 1, 2005	Scope of Project, Rules of Procedure, MRD Overview and History
March 2, 2006	Retaining experts, Washington State Department of Transportation Long Term Aviation Transportation Study, Puget Sound Regional Council Planning for Commercial Airport Capacity
April 6, 2006	Airport 101: Federal Aviation Regulations; Paine Field Master Plan; Airport Noise Science, Metrics and Legal Overview
April 20, 2006	Regional Airport Overview and Comparison (Sea-Tac, Boeing Field, and Paine Field)
May 4, 2006	Airport Master Plan Update—forecasts and noise contours for 2021; and Growth Management Act and Comprehensive Plans.
May 18, 2006	Presentations by Save Our Communities and Private Enterprise Coalition
June 1, 2006	Questions for presenters; discussion of updating the MRD Document.
June 15, 2006	Review draft of combined MRD Document.
October 18, 2006	Presentation by Peter Kirsch, Esq. (Denver) on federal regulation of airports
November 9, 2006	GMA, Land Use Planning, and review of draft blended MRD Document
November 30, 2006	Discussion of draft blended/updated MRD Document
December 14, 2006	Discussion of draft blended/updated MRD Document

COMMUNITY PANEL MEMBERS' VIEWS

At the December 14, 2006 meeting, community panel members expressed the following views.

AJ Chase

The MRD Document set goals that have been accomplished, as described by the Shaw/Wolken/Townsend proposal. Ms. Chase sees no need to revise the MRD Document when the intent of the MRD Document is already incorporated into other planning documents such as County and city comprehensive plans and the airport master plan. She supports the Shaw/Wolken/Townsend proposal, but does not see that proposal as “throwing out” the MRD Document. She understands the Shaw/Wolken/Townsend proposal to outline the goals established by the MRD Document and describes how they have been accomplished.

Don Doran

The MRD Document is a cornerstone for thirty years of development at and around the airport. It is woven into many other documents, up to and including the state level. The MRD Document cannot be ignored or trivialized because it is part of many other documents and decisions. Policy documents reflecting political compromises rarely have crystalline clarity. Perceived ambiguities in the MRD Document are not sufficient grounds to discard it.

There is no evidence that scheduled air service at the airport will be an engine for economic growth. Scheduled air service cannot be limited at the airport; service cannot be limited to several flights a day. Mr. Doran expressed concern that unlimited growth of passenger air service could impede Boeing or Goodrich operations, which could cause them to rethink investing and creating jobs in the community. Unlimited growth of passenger flights might affect base relocation and closing decisions regarding Naval Station Everett. Mr. Doran supports the MRD Document and offered revisions to it.

Tom Gaffney

The MRD Document was put together with reason and thought. Many of its objectives have been accomplished. Mr. Gaffney's lengthy community experience advising businesses and community organizations tells him that this document is inadequate and cannot be revised. He believes the choices are either to rewrite the MRD Document or adopt the Shaw/Wolken/Townsend proposal. He strongly supports the Shaw/Wolken/Townsend proposal. It is time to move on past the MRD Document. Policy guidance belongs in the documents now used for policy guidance, such as the comprehensive plans process mandated by the Growth Management Act and the airport master plan. The MRD Document is not a good legal document and he cannot support it.

Gary Haakenson

The MRD is so much more than just a historical document. It is a building block document, upon which all the other documents are based, such as the County's comprehensive plan and the airport master plan. The MRD is a document of the people. They put their faith and

trust in it to protect their community. A speaker called it a "social contract". From a constituent standpoint, that's exactly what it is, even if it is not a legal contract. As an elected official,⁴⁰ Mr. Haakenson cannot in good conscience walk away from the contract. A non-elected official can find it easier to dismiss it as an interesting piece of history and nothing more.

Not only have the airport master plan and County comprehensive plan leaned heavily on the MRD Document, but so have surrounding communities. Many cities have accepted the MRD as a building block for their comp plans and the County Council has reaffirmed the MRD Document four times in three different decades. While the MRD Document may be considered historical by some, the County Council has kept it current by reaffirming it on a regular basis.

It is now a matter of public trust. If we pull the MRD out from under all the planning that has come after it, we are not only undermining public policy, but undermining the public trust put in elected officials to protect their communities and quality of life.

Tom Hoban

Mr. Hoban likened the situation to a commercial real estate situation where the tenant restaurant is doing well and the landlord is happy to collect the rent, but the lease document is poor. A time out is taken to agree on what document says. If parties cannot agree, they throw it out and write a new agreement. That is best course of action here. This is about the MRD Document, not about policy. The attorney's report⁴¹ changed his mind. Mr. Hoban strongly supports the Shaw/Wolken/Townsend proposal and does not want any part of a "scrubbed" MRD Document. Attempting to revise the MRD Document would merely create confusion. The attorney opined that the MRD Document is a confusing, difficult document. The Shaw/Wolken/Townsend proposal is better.

Lori Kaiser

This panel was formed of members with different opinions, which is appropriate because all opinions should be included. This panel's scope of responsibility was to update the MRD document language, not to rewrite policy, not to determine what panel members did, or did not, like, and not to send a resolution to County Council. A policy document like the MRD Document is commonly used throughout the country. According to outside counsel, such policy documents are rarely reviewed or updated after being put in place by a governing body, nor is it unusual for the policy document to be many years old. County Council reaffirmed the MRD Document four times. It guides policy for the County and surrounding cities in many areas, including zoning. Local land use policy was developed by the local jurisdictions in concert with the MRD Document. It is the building block of all comprehensive plans. It is consistent with the Growth Management Act, an overarching statement of law that requires consistency. The community relies on the MRD Document to ensure lack of conflict. The building block, i.e., the MRD Document, is needed for continuing reference when fulfilling comprehensive plans. The airport master plan incorporates that policy and reaffirmed the MRD Document. The airport master plan has a

⁴⁰ Mayor of the City of Edmonds.

⁴¹ Memorandum by Peter Kirsch, Esq. of Kaplan Kirsch Rockwell, LLP.

specific object: get more money from the FAA to build more facilities and improvements. The purpose of the airport master plan is very different than the MRD Document's purpose of defining the understanding between airport and surrounding communities. Local governments would be reluctant to plan the future of their communities without the MRD Document. The presence of communities surrounding the airport makes a difference. The situation would be different if Harbour Point and Mukilteo south did not exist. The MRD Document has been fully implemented at all levels of government. There would be no detail supporting planning policy without the MRD Document. Claims that the MRD Document is difficult to interpret is belied by the fact that all understand the MRD Document to support general aviation.

Kevin Lavery

Mr. Lavery believes updating of the MRD Document should occur and be reviewed by the County Executive and County Council. It is clear that laws have changed in the past thirty years and much of what is covered in the original MRD Document(s) resides elsewhere now – particularly under the aegis of the GMA and local planning docs. Mr. Lavery agrees with Russ Keyes⁴² that the community panel was charged with updating the existing MRD Document. To the extent that the MRD was initially a social compact or policy statement, that remains unchanged until the County Council chooses to act otherwise.

The Mukilteo School District's is to educate children and to actively work on their behalf to assure the best possible environment for them. Like all organizations or people, there has to be an incentive for the School District to change how it goes about its mission. In the case of the MRD Document, there is no incentive for the School District to support a change in the policy described therein.

Mr. Lavery resides in the flight path of the runway and has small planes sputtering over his home and Boeing wide bodies and military jets within 1,000 feet on occasion.

When all is said and done, the day will come when an airline that feeds into a hub or a commuter service will want to come and use the big runway at Paine Field. By then, Sound Transit may have a completed link to Everett Station and/or PAE. It will be challenged, as it would be anywhere else in the country. The existence of the Save Our Communities organization reminds us that citizens situated around any airport are not going to take a proposal to expand the airport's mission lying down and, by and large, will not be in favor of expansion.

There is a segment of the community that believes the decision was made long ago to allow the area around Paine to be built up and out, and further believes this was all done in reliance on the MRD Document. Obviously, there is another group that sees Paine as a strategic asset to for business and employment development in the region and the MRD as an anachronism. Mr. Lavery supports providing the various documents and views offered in the community panel meetings to the County Executive and County Council to consider.

⁴² A technical advisor to the MRD Panel.

Michelle Robles

Ms. Robles believes it is important that the County not initiate steps leading to passenger air service. She noted that all now know that the County cannot discriminate against airlines, but there is a difference between not discriminating and affirmatively seeking passenger air service. The first line of the airport master plan describes the airport as a general aviation airport and says nothing about passenger service. The role of the community panel is to update the MRD Document, not to recommend a change in the use of the airport. As a result of her work on the community panel, she has a more open opinion. Her biggest concern is that the primary role of the airport is to provide Boeing with a place to operate. She strongly suspects that even if the airport operational tempo equaled Sea-Tac, the airport would not generate as many jobs as Boeing. The County promised in its 1994 resolution to protect the community from adverse impacts and reaffirmed that promise in 2002. No one believes now that an airline can be kept out if it wants to offer service, but she is concerned that any thing that negatively affects Boeing negatively affects the County.

The community panel's task is to update the language of the MRD Document. Although it was written by committee, it is being updated by committee. This community panel was tasked to update the language of the MRD Document. She is not one hundred percent happy with either the original or the proposed updates. She understands other community panel members' concerns about attaching her name to a document with which she is not happy. The proposed revisions increase the MRD Document relevance. The MRD Document was written for a purpose. Although Mr. Shaw's proposal notes that nine MRD objectives have been accomplished, most of the issues identified by the MRD Document remain. The MRD Document should be revised as discussed in the community panel meetings. Revisions could have been prepared by county staff, but the revisions would have been prepared without public input, without input from elected officials, and without input from the business community.

The MRD Document will not be perfect, even after it is revised as proposed in these meetings. The revisions should be given to the County Executive and County Council. The MRD Document accomplished many things and will continue to accomplish many things. The airport is a good economic driver. If it ain't broke, don't fix it.

John Shaw

Mr. Shaw co-authored a proposal with community panel members Mark Wolken and Hugh Townsend. He characterizes his proposal as a process proposal. It is not an up or down vote on passenger air service, but provides a process to define the role of the airport. He believes all agree that the MRD Document is the most misunderstood document in the county and that some think it also the most misrepresented. The MRD Document is flawed and outside counsel said the document is flawed. It would be a mistake to amend it, clean it up and send it forward. If anyone is to clean up the MRD Document, it should be the County Council through the Comprehensive Planning process. The MRD Document is clearly the product of a committee.

He believes the planning process to update the Comprehensive Plan pursuant to the Growth Management Act and the resulting updated Comprehensive Plan will control. He worries that someday, an airline will propose passenger air service, there will a process then to

decide what to do, and that some will inaccurately hold up the MRD Document and claim it has already settled the issue of passenger air service at Paine Field in favor of no passenger air service.

Mr. Shaw appreciated the civility and courtesy of all involved in a tough policy process.

Ray Stephanson

A lot of citizens believe a myth that the MRD Document promises no passenger service. This myth is misleading, not accurate and not truthful. Can the MRD Document be revised to reflect accurately what the airport master plan represents? The MRD Document either exists as an historical perspective or exists as a social contract.

He agreed to serve on the panel without knowing what the MRD Document said. Like many in Everett, he thought it prohibited scheduled passenger air service, but he learned the MRD Document does not contain such a prohibition. Outside counsel⁴³ said use of language discouraging uses has risks. He supports incorporating policies of preferred airport uses in the airport master plan. There has been an evolution, from the MRD Document (which is now a historical document) to the airport master plan and County comprehensive plan. He believes County Council should use the airport master plan to reflect its policy of preferred airport uses, which allows a single document to take into account all that has been done. If and when there is scheduled passenger air service, the physical configuration of the airport will dictate the maximum level of service. When faced with the facts of a specific proposal, people who presently support or object to passenger air service may change their minds, at least with respect to a specific proposal. That is not today, however. Today the question is not about a specific proposal, but what the policy should say in the absence of a proposal. The Shaw/Wolken/Townsend proposal is within the scope of the County Executive's charge to the community panel: "Look at MRD Document and update it." The panel's work has been intellectually stimulating and emotionally draining. He respects and appreciates the passionate feelings of everyone involved.

Hugh Townsend

The MRD Document is terrible as a current policy document because it communicates no clear position on today's most contentious airport issue – passenger air service. If a clear position on passenger air service was intended by this document, the document should have been and most likely would have been cleaned up twenty-eight years ago. Revising it as proposed eliminates its historical integrity. The proposed revisions result in a mixture of incomplete statements relating to conditions of more than twenty-five years ago with those of today (such as the Growth Management Act and Airport Noise and Capacity Act). This mixture of then and now, and the deletions of the many original MRD objectives that were subsequently accomplished, sap the MRD Document of its historical meaning. It would become even more difficult to look back and determine what the MRD Document meant. He did not join this panel with a strong perspective regarding passenger air service. He thinks passenger air service would be valuable, but recognizes that others disagree. Mr. Townsend believes the MRD Document does not advance the discussion of the merits of passenger air service. It would be a disservice to the community to proffer a document,

⁴³ See Kaplan Kirsch & Rockwell LLP memorandum, *supra*.

even revised, that does not provide clarity on that important issue. If it represents a social contract, perhaps a new social contract should be agreed. He cannot determine what was meant by the MRD Document in 1978. Today's questions should be answered today, not by trying to determine what we imagine to be answers from the past.

Mark Wolken

Although some claim the MRD Document is a social contract, Mr. Wolken said he cannot find it within the four corners of the MRD Document. He visited the Everett Public Library and read newspapers from 1978-1979. Only three members of the original MRD panel were members of the community as a whole; the other ten came from the aviation community. The City of Mukilteo, the City of Everett and the Mukilteo School District supported the “do nothing” role. The County commissioners extended a lease for a military helicopter squadron for twenty years the same month the MRD Document was delivered to the County Commissioners, despite the MRD Document's explicit statement discouraging military use. Mr. Wolken believes this demonstrates that the County commissioners did not intend their adoption of the MRD Document to be a long-term commitment. The MRD Document should have been regularly reconsidered and updated, but that promise was not kept. Another task force was appointed by County Executive Willis Tucker in 1987-1989—and Executive Tucker knew the original intent. An update was negotiated and approved by unanimous vote, but then the neighborhood groups reversed course and opposed the update in a hearing before County Council. Mr. Wolken would like to find a way forward and demystify what was adopted. He believes we should focus on the elements and deal with the issues so they are not shoved down our throat.

Mr. Wolken supports the Shaw/Wolken/Townsend proposal, which he co-authored. It is a policy step that needs to be taken. Many people believe the MRD Document contains a mandatory prohibition of passenger air service, but that is not accurate. When people believe an important document says something it does not say, that is a huge problem. If the MRD Document is a mess, it cannot be cleaned up without starting over. Mr. Wolken asks rhetorically, “What do you get when you shine dung? Shined dung!” He says, “We should not shine dung.” The policy intentions are embodied in the airport master plan and comprehensive plans, as they should be. We should not use an out-of-date, out-of-context, misrepresented document as a foundation for the future.

Mr. Wolken does not believe he served on the community panel as a representative of business. He has twenty-five years of public policy experience. He is currently the Chairman of the County Boundary Review Board and Chair of the City of Everett's Civil Service Commission.

COMMUNITY PANEL MEETING MINUTES

November 1, 2005 Meeting Minutes

MRD PANEL ATTENDEES

A. J. Chase	Deanna Dawson	Don Doran	Tom Gaffney
Tom Hoban	Lori Kaiser	Kevin Lavery	Michelle Robles
John Shaw	Ray Stephanson	Hugh Townsend	Mark Wolken

TECHNICAL ADVISERS ATTENDEES

Roy Chandler	Stephen Kiehl	Jack Jones	Carol Key
Russ Keyes	John Sibold	Rich White	

SNOHOMISH COUNTY OFFICIALS

Aaron Reardon	Mark Soine
---------------	------------

SNOHOMISH COUNTY STAFF ATTENDEES

Tom Fitzpatrick	Joan Langlais	Dave Waggoner	Bill Dolan
Michael Zelinski	Jim Maynard		

INTRODUCTION

Co-Chair Ray Stephanson welcomed MRD panel members, technical advisers, County Executive Aaron Reardon, Deputy County Executive Mark Soine, Snohomish County Staff, and consultants and introduced Co-Chair Don Doran. Tom Fitzpatrick introduced panel members and technical advisers and explained the technical advisers represent businesses and organizations interested in aviation or the use of Paine Field. Mr. Fitzpatrick then introduced consultants and participating Snohomish County staff members. A representative of the Department of Information Services will be at the next meeting to talk about how they could help this project by assisting with electronic communications.

SCOPE OF PROJECT

Aaron Reardon welcomed the panel, advisers, members of the public present for the meeting, and others. He stated the panel members are the “the best of Snohomish County.”

In his remarks, Executive Reardon noted it has been about 30 years since the MRD was written. He noted there are differing understandings of the document. That is one reason why he believed it is time for the MRD to be reviewed and updated.

Executive Reardon stated he believed the purpose of the MRD Panel is to:

- Review the MRD document.
- Work to make the document more relevant.
- Make recommendations to improve the document.

Executive Reardon stated to accomplish that, the Panel should:

- Assemble factual information.
- Provide this information to the public through the Panel’s discussions and work.

- Make recommendations on the policy positions taken in the MRD.

RULES OF PROCEDURE

Ray Stephanson distributed and discussed MRD Panel Procedures. The Panel agreed to utilize these to conduct its work.

MRD OVERVIEW AND HISTORY

Tom Fitzpatrick distributed a packet of information that included the meeting agenda, lists of the MRD Panel members and Technical Adviser members, and the MRD document entitled "Role for Development of Paine Field Selected."

Mr. Fitzpatrick then introduced Deputy Airport Director Bill Dolan who gave a PowerPoint presentation on Paine Field's past, present, and future. Copies of the slide presentation were distributed.

Following the presentation, Ray Stephanson asked Mr. Dolan to provide a glossary of terms used in the presentation. Mr. Dolan agreed to do so as well as provide the Panel an airport layout plan.

A question and answer among panel members followed.

- Thomas Gaffney asked about references to 65 DNL. Bill Dolan explained that the DNL metric is the internationally accepted method of describing noise impacts on communities near airports. The DNL metric penalizes noise events occurring during the night-time (between 10 pm and 11 pm) hours at the airport, which is considered to be ten times as loud as the day-time (between 10 am and 7 pm) noise level. For comparison, Mr. Dolan noted that the Everett intersection of Rockefeller and Pacific Avenues (just outside of the meeting room) would probably equal 55 DNL.
- Lori Kaiser asked for a definition of DNL (DNL means Day Night Level); and for data that shows spikes and peaks. Mr. Dolan will provide monthly traffic count data broken down by day and types of activity that can be summarized on a per-day basis. Consultant Ryk Dunkelberg also responded to Lori Kaiser's question by stating he will provide information on noise for the Panel at a future meeting.
- Lori Kaiser also asked about projected and actual landing patterns. Mr. Dolan Bill will provide radar track data from the airport's AIRSCENE monitoring system.
- John Shaw commented on the 1990 Airport Noise and Capacity Act known as ANCA which required the phase out of all State II aircraft over 75,000 pounds from operating in the a United States. Bill Dolan noted that technology advances in engine and airframe design have made newer aircraft much quieter, and are now quieter than some of the older small propeller and business jet aircraft. Float planes, for example, are smaller aircraft that make more noise than Stage 3 Aircraft.

Tom Fitzpatrick then outlined what information was intended to be presented to the Panel so its work could progress. He urged the Panel to provide input on anything additional the Panel would desire as it progresses. He indicated the Panel would receive the following information:

- The legal environment in which the airport operates, including FAA regulations and planning requirements.
- More detailed information regarding noise at Paine Field and the existing program to address noise issues.
- Existing airport facilities and uses.
- Developments in regard to aviation needs in Washington State.

Dave Waggoner indicated he could arrange for tours of Paine Field facilities and stated airport staff are available to help facilitate the Panel's work. The Panel agreed by consensus to have those interested tour of Paine Field prior to the next MRD meeting. Mr. Waggoner will arrange for the tours.

Tom Fitzpatrick suggested that at the next meeting the panel might discuss topics for which they might need or desire other information or feedback and meeting scheduling.

Panel members then discussed the following suggestions for future agenda items.

- Michelle Robles' main concern is growth, particularly residential growth, around Paine Field. She would like to look at impacts such as noise, general environmental impacts including air quality, ground water pollution, and aviation pollution on neighboring residential neighborhoods.
- Mark Wolken said that the Panel should agree on a scale of airline activity that would be discussed and analyzed. He felt that suggestions that passenger traffic at Paine Field would result in SeaTac level of flights and impacts are an exaggeration. He suggested that the Panel reach a consensus not to talk about SeaTac North. The Panel should agree to discuss relevant, not unrealistic, potential airport uses.
- Hugh Townsend also expressed an interest in learning about community impacts, and suggested landing patterns and number of landing and take off operations should be considered.
- If the Panel were to talk about Paine Field as a regional airport, it should, suggested Lori Kaiser, look at what SeaTac is doing internationally. Tom Fitzpatrick suggested a discussion of what is happening regionally could include the role of the PSRC.
- Ray Stephanson would like to understand the FAA's role and power with the airport compared to the power the community has. He suggested having a discussion with the FAA. He would like to gain a clear understanding of technological improvements related to air travel related to noise, etc. He suggested reviewing the

Paine Field MRD to see what is still valid and what should be changed. Don Doran noted that the MRD has been reviewed several (four) times. It was reaffirmed in 2002. Ray Stephanson wondered how complete the reviews were.

- Don Doran would like to look at the economic costs of passenger service at Paine Field as well as the economic benefits. He is interested in determining net negative impacts on real estate values in the surrounding areas. Don wonders whether the night-time DNL alters overall noise impacts. Single and multiple noise events are issues – what are the impacts on learning and the environment?
- John Shaw said that the concerns of Save Our Communities relate to broader issues relating to air service, not just to Paine Field. He felt it would be beneficial to understand the pros and cons of their concerns. Ray Stephanson said that there are some studies in regard to regional aviation needs that would be helpful. Tom Fitzpatrick will make some inquiries and report on applicable studies.
- Kevin Lavery wondered whether the federal government would have resources available to help the airport if noise levels were to rise above 65 DNL.
- Tom Hoban suggested a presentation on a state study regarding regulations. John Sibold said that the Washington State Legislature has asked the Washington State Department of Transportation (WSDOT) to study and come up with recommendations that will address general and commercial statewide aviation needs, focus on a statewide system, and look at rail transportation. Many questions could be answered by a presentation on this study. John offered to provide a brief overview of the study for the Panel at a future meeting.

FUTURE MEETING SCHEDULES

Information will be sent to members regarding dates and times for the Paine Field Tour.

Following discussion regarding a meeting schedule, members were asked to e-mail their date and time preferences to Tom Fitzpatrick at tfitzpatrick@co.snohomish.wa.us by Friday, November 4. He will assemble the information, provide it to the Co-chairs, who will develop a schedule for meeting time which will be sent to members.

OTHER

Meetings are open to the public. Guests, several of whom could not hear the speakers, requested that microphones be made available at future meetings.

There will be milestones on which the public can “weigh in.”

Minutes of the meetings will be available on the Snohomish County web once the Panel reviews the information from DIS about what is available which will be presented at the next meeting.

The meeting adjourned at 3:15 pm.

March 2, 2006 Meeting Minutes

**MEDIATED ROLE DETERMINATION PANEL
SNOHOMISH COUNTY ADMINISTRATION BUILDING EAST
FIRST FLOOR MEETING ROOM #1
MARCH 2, 2006
MEETING MINUTES**

MRD PANEL ATTENDEES

Don Doran	Ray Stephanson	Mark Wolken	Michelle Robles
Tom Hoban	Lori Kaiser	Kevin Laverty	
John Shaw	Hugh Townsend	A J Chase	

TECHNICAL ADVISERS ATTENDEES

Roy Chandler	Stephen Kiehl	Carol Key
Russ Keys	John Sibold	Rich White

SNOHOMISH COUNTY OFFICIALS

Aaron Reardon Mark Soine

SNOHOMISH COUNTY STAFF ATTENDEES

Tom Fitzpatrick	Mary Lynne Evans	Dave Waggoner	Bill Dolan
Dave Hopkins	Dave Stroble	Christie Baumel	

INTRODUCTION

Co-Chair Ray Stephanson called the meeting to order and welcomed MRD panel members, technical advisers, staff and the public to the second meeting of the MRD review panel.

Minutes

Kevin Laverty moved for approval of the November 1st meeting minutes as submitted, Mark Wolken seconded the motion and it passed unanimously.

Administrative

Bill Dolan then described the contents of the meeting information packets panel members received including Revised Agenda, Minutes of November 1st meeting, executive summary of the 2002-2021 Airport Master Plan Update, Forecast chapter from the Airport Master Plan including County Council Motion 01-255 adopting the regional Low forecast scenario and reaffirming the MRD, the Noise Analysis chapter from the FAR Part 150 Noise Compatibility Plan including background and definitions, flight operations and flight track data as requested by panel members at the 1st meeting, copies of Steve Keihl's PSRC power point presentation; a summary of the PSRC1996 decision process regarding Sea Tac's 3rd runway, a PSRC general chronology of Airport capacity decisions from 1973-2006, a copy of House Bill 2383, a WSDOT paper on the Washington State Long- term Air Transportation Study (LATS), and a CD including the 1977 Paine Field Community Plan and appendices

and the 1981 Airport Master Plan which were discussed at the panels 1st meeting. Bill noted copies of these materials were available on the table at the entry for the public.

DIS presentation

Dave Hopkins, systems project lead supervisor from the County Department of Information Services (DIS), then described the opportunities for his department to support the panel's efforts to communicate externally with the public and internally amongst themselves. Using the ongoing County Charter Review Commission as an example he described how the County web page can provide a powerful vehicle for communication with opportunity to include features like search, e subscribe notifications, media coverage links, and surveys. Dave Stroble, DIS systems analyst, then described how DIS can create a Microsoft Share Point site or sites to allow panel members to communicate amongst themselves as an entire group or as subcommittees. The sites require usernames and passwords but he noted the programs are wizard driven requiring no special computer skills. DIS staff will meet with Tom Fitzpatrick to determine an administrator who will be the focal point for content added to the web site.

Retaining experts

Tom Fitzpatrick then discussed with the panel some of the staff effort that had occurred since the first meeting on the subject of expert assistance. He noted the MRD review panel is an independent body with no predetermined results and that while the panel may wish to use existing County staff resources for some subject areas they may wish to use outside consultants for others. Tom said there is no specific budget amount identified for the panels use of outside consultants but noted also it is not an unlimited budget. Based on the conversations at the first panel meeting Staff has been reviewing opportunities for outside consultants to provide input on the questions of what effect would scheduled air service have on economic development, and what effect would it have on property values. He noted the 2 subjects are not totally exclusive and explained that the Paine Field situation is a bit unique in that most studies on these issues deal with commercial service in communities where no commercial service previously existed and noise impacts studies are from larger scale operations. A third potential area for outside consultant help could be with helping the panel with public involvement.

Tom explained that a Request for Qualifications (RFQ) process would be required to obtain such consultant services and that with the required advertising, submittal preparation, review, interview, selection, and contracting time required in the RFQ process the consultant(s) could be on board in a little over a month after the RFQ is published. He noted that a case study approach would be one way to approach the economic and property value effects questions and thought others might be suggested by the consultants during the RFQ process.

Regarding existing data for the panels use Tom explained that the adopted 2002-2021 Airport Master Plan data was created in a standard FAA approved process and was based on reasonable population forecasts which have been recently verified. The plan projected 4 scenarios of regional low, regional high, national low and national high and the County

Council adopted the Regional Low forecast. And those forecasts were the basis for the FAR Part 150 Noise Exposure Maps.

Don Doran indicated he was uncomfortable with the discussions of measuring noise and other impacts of air service options and reminded that the charge given by the Executive to the MRD Review Panel. As noted in the minutes of the first meeting was to:

review the MRD document, work to make the document more relevant, and make recommendations to improve the document.

Ray Stephenson responded that as noted in the minutes Executive Reardon stated to accomplish that, the Panel should assemble factual information, provide this information to the public through the Panel's discussions and work, and make recommendations on the policy positions taken in the MRD. He noted there are differences in opinion in what the MRD says. He said he didn't know where the panel's review of the document and data generated in the process was going to take us, and wants to find out what the facts tell us.

Michelle Robles noted the MRD is a 28 year old document with some sections now obsolete due to the passage of time and intervening events, she felt it was a living document in need of the panels review. Michelle expressed how the public perceptions of the Panels independence and transparency of the review process and the opportunity for public involvement were key to a successful outcome. She felt that the web page could be a valuable tool for getting information out there in a factual non emotional manner. She also suggested that media links on the site should include Seattle and South County media coverage on the subject.

Mark Wolken indicated that the panel's review of economic impacts should address economic development in a broad sense not just counting jobs, and Michelle said the review of negative impacts should include a quality of life perspective not just monetary property value impact.

Russ Keyes noted that a lot of data pertinent to these discussions has already been developed in the Airport Master Plan Update and FAR Part 150 noise study processes conducted by the Barnard Dunkelberg firm and felt they would be a valuable asset to the panel's efforts.

Lori Kaiser noted that the negative impacts from air service will go beyond airplane noise and that she rates increased vehicle traffic congestion right up there with noise and that she has concerns also about potential for air and water pollution impacts.

Tom Fitzpatrick noted that there are in house capabilities at the County to provide data on some of these issues noting specifically the County Public Works Department could provide the road traffic information. He said any analysis of impacts will need to know the activity assumptions the panel is working with and suggested the 4 levels of activity identified as scenarios in the Airport Master Plan forecasts would be a reasonable starting point.

John Shaw asked what is the deliverable here? Aaron Reardon reiterated the deliverable is the Panel should assemble factual information, provide this information to the public

through the Panel's discussions and work, and make recommendations to the Executive on the policy positions taken in the MRD.

Kevin Lavery said he felt the panel would benefit from input from consultants who specialize the areas of positive and negative economic effects.

Ray Stephanson said the co chairs would work with Tom to review a RFQ for consultants to address the positive and negative economic effects. He noted that responses to the RFQ process may show that the kind of data we want isn't available or is not available in a form we want.

Michelle Robles felt that the panel would do well to get the website established and begin to get public feedback before deciding on whether to hire a public involvement consultant.

WSDOT LATS

John Sibold the Director of the WSDOT Aviation Division was then asked to brief the panel on the status of the States new Long-term Air Transportation Study (LATS) required by the legislature last year. John provided copies of a LATS briefing paper and the legislative bill which authorized the study. He explained that LATS addresses State wide transportation needs and includes 3 distinct phases with the first phase being an inventory assessment now underway by the consulting firm SH&E and scheduled for completion July 1, 2006. The second phase will complete airport demand forecast and market analysis for the next 25 years and scheduled for completion July 1, 2007. The third phase which he described as the "How do we get there" will include a ten member planning council to be appointed by the governor to review the data and make recommendations on future statewide aviation needs. He noted the primary source of information on the study will be the study website www.wsdot.wa.gov/aviation/news/2005/airtranspstudy/default.htm

FAA has contributed \$900,000 in grant funding for the first two phases of the study, matched by \$100,000 from the State and supplemented by \$50,000 from the state for a rail study component.

PSRC

Steve Keihl the senior planner for the Puget Sound Regional Council (PSRC) then made a presentation to the panel on the history of air transportation planning efforts in the region over the past 3 decades. He provided copies of his power point presentation and a written chronology. He noted that the 1992 "Flight Plan" process concluded the 3rd runway should be built at Sea Tac and the region should continue to look to develop major supplemental airport(s) (*defined as airports with 2 parallel 10,000' long runways capable of simultaneous independent operations*) and removed Paine Field from consideration as a major supplemental airport (*couldn't meet the criteria*). Steve stated that the Major Supplemental Airport study was unable to find any feasible sites and requested the State begin a process to address the long range airport capacity needs which is the purpose of the LATS study now underway. He noted that Sea Tac is currently handling 29 million passengers annually and current planning projects 3% annual growth with Sea Tac reaching its 45 million passenger capacity in 2021.

Steve proceeded with a discussion of last years proposals by Southwest Airlines and Alaska Airlines to relocate operations from Sea Tac to new terminals they would build at Boeing Field. King County analyzed both proposals and determined that the airport had the physical capacity to accommodate one proposal and the impacts and public investment necessary would have been manageable. The analysis determined that there was inadequate airport capacity to accommodate both proposals and the combined impacts and investments necessary with both proposals would have been unacceptable. So rather than choose one airline over the other King County declined both proposals.

Steve also provided some discussion on the economic nondiscrimination assurance (*assurance #22*) Snohomish County and all airport sponsors commit to when accepting federal grants which in section a obligates the County to ...”make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.”

Future meetings

Ray Stephanson noted the meeting was nearing the 2 hour mark. Aaron Reardon stated the next meeting of the panel is scheduled for 2:30pm on Thursday March 16th and would include a draft time line of subjects to be addressed at future meetings in an effort to tighten up the process and provide panel members a clear path to the deliverables expected from them.

Tom Hoban asked if the 37 seat dash 8-200 turboprop aircraft operated by Horizon Airlines was allowed to operate at Paine Field under the current MRD. Bill Dolan noted that the panel’s packets included the County Council motion 01-255 adopting the Master Plan forecasts which reaffirms it commitment to the MRD and encourages commuter service. He said that packet also included the CD with the Paine Field Community Plan (PFCP) and appendices on which the role was based and that the PFCP projected commuter aircraft up to 50 seat capacity.

The meeting adjourned at 4:35pm

April 6, 2006 Meeting Minutes

MEDIATED ROLE DETERMINATION PANEL SNOHOMISH COUNTY ADMINISTRATION BUILDING EAST FIRST FLOOR MEETING ROOM #1

April 6, 2006

MEETING MINUTES

MRD PANEL ATTENDEES

Don Doran	Ray Stephanson	Michelle Robles
Tom Hoban	Lori Kaiser	Kevin Laverty
John Shaw	Hugh Townsend	A J Chase

TECHNICAL ADVISERS ATTENDEES

Roy Chandler	Carol Key
--------------	-----------

Russ Keyes

SNOHOMISH COUNTY STAFF ATTENDEES

Donna Ambrose	Jim Maynard	
Dave Waggoner	Bill Dolan	Christie Baumel

INTRODUCTION

Co-Chair Don Doran called the meeting to order and welcomed the MRD Review Panel members, technical advisers, staff and the public to the third meeting of the MRD Review Panel.

MINUTES

Mr. Doran requested a correction to a typographical error in the draft March 2 meeting minutes where the 1981 Airport Master Plan was cited as the "1881" Airport Master Plan. Tom Hoban moved for approval of the minutes as corrected. Hugh Townsend seconded and the motion passed unanimously.

Mr. Doran then asked for public comment noting that there was a three minute per person limit with a 10 minute total so the Panel could move forward with their full agenda. He indicated that at the next meeting of the Panel there would be a sign-in sheet for speakers.

Greg Hauth, Vice President of Save Our Communities (SOC), requested that the Panel consider allowing SOC an opportunity to provide a detailed presentation of 30-45 minutes at a future meeting. He noted that SOC has been following the issue for over 10 years and gathering substantial information which could be helpful for the Panel in their deliberations.

Grant Woodfield, a resident of the Picnic Point neighborhood southwest of the airport, presented copies of three papers to the MRD panel: 1) his summary of Paine Field noise reports; 2) his summary of business growth at Paine Field; and, 3) his markup of a report on America's 100 Most Needed Airports. He noted that the 2000 study from the National Air

Transportation Association (NATA) does not include Paine Field as one of the 100 most needed airports as the U.S. moves into a new century of airport development.

Mr. Doran then introduced Donna Ambrose, management analyst for Executive Reardon, to provide a review of the MRD Panel's mission and goals. Using a PowerPoint presentation, Ms. Ambrose noted the Panel's mission is to review the MRD document, make the MRD document relevant and make recommendations on how to improve the document. The Panel's goals are to assemble factual information, present factual information for discussion and potential action, and to make recommendations to the Executive on policy decisions. She identified a scope of work for accomplishing those goals citing areas of the MRD that need varying levels of study and review.

Mr. Doran then introduced Ryk Dunkelberg, the president of Barnard Dunkelberg and Company. Mr. Dunkelberg's was hired to prepare updates to the Paine Field Airport Master Plan in 1995 and 2002 as well as the Airport's FAR Part 150 Noise Study. Mr. Dunkelberg presented background information on the legal and planning framework in which airports are required to operate as an overview of noise and noise metrics. Mr. Dunkelberg's firm has prepared the updates to the Paine Field Airport Master Plan in 1995 and 2002 as well as the Airport's FAR Part 150 Noise study.

Mr. Dunkelberg's "Airports 101" presentation followed an outline in a PowerPoint format. He explained that noise is defined as sound or a sound that is loud, unpleasant, unexpected or undesired." He also noted that personal preferences and sensitivities vary, so one person's music is another person's noise. While describing the characteristics of sound he said that the range of sound pressure levels is so large that it is expressed in a logarithmic scale of decibels (db). As most people think in linear terms, the logarithmic scale is often challenging to grasp. The reaction one has to sound is affected by the frequency (pitch) and duration of the sound. Very high and very low pitches are outside the range of human hearing so an A-weighting scale is used to more closely reflect human perception. This dBA scale has the advantage of a good correlation with community response and it is easily measured.

Mr. Dunkelberg explained that how sound travels is affected by several environmental characteristics including frequency, temperature, humidity, temperature gradients, wind gradients, shielding by structures and excess ground attenuation. A noise source can make the same noise level at two different times and be heard differently at a receiver if those characteristics vary between the two different times. He offered a few "rules of thumb" to help the Panel understand the logarithmic nature of noise including that 3dBA is the threshold at which a healthy ear can detect change in noise: 1) a 10dBA change seems twice as loud; 2) 20dBA change seems four times as loud; and, 3) that sound decreases 6dBA when the distance between source and receiver doubles.

He went on to explain various noise metrics, how they relate to each other and how they are used in understanding aircraft related noise impacts in communities around airports. These included the single event metrics Lmax and SEL, the cumulative noise metric LEQ, and the cumulative daily noise metric DNL. He used a few graphics to illustrate the effects of single event noise on speech interference and sleep interference. He noted that hearing loss is not an issue until there is continuous noise exposure of over 85dBA over extended periods as

measured by OSHA (the Occupational Safety and Health Administration). The graphics also showed how a small number of loud single events can have a great impact on the LEQ or DNL. Those graphics showed a time history example of three short duration aircraft flyover events with Lmax of 80-90dBA in an area with a background (ambient) noise level of 43dBA would produce an LEQ for that entire hour of 72dBA.

Mr. Dunkelberg continued noting that the DNL metric is the sum of all noise events within a 24-hour period and it includes a 10dBA penalty added to all noise events between 10pm and 7am (making the event seem twice as loud) to reflect our higher sensitivity to noise during hours of sleep. He explained that the federal government has established DNL as the accepted metric for analysis of aircraft noise impacts. Furthermore, he said that the federal government adopted 65DNL as the threshold for precluding noise sensitive uses near airports based on a series of studies on annoyance and community response. He described how the FAA produces a computer program tool called the Integrated Noise Model (INM) for calculating the annual DNL around any airport. The INM is updated periodically to include new noise data on new models of aircraft (current version is INM 6.1). The INM requires airport specific data inputs including number of flights by aircraft type, the flight tracks, time of day, typical operational procedures and average meteorological conditions and then produces DNL noise contours. DNL noise contours are graphic representations on a map with lines connecting areas exposed to equal noise energy. Mr. Dunkelberg showed the Official Noise Exposure Maps (NEM) DNL contours adopted by the FAA for Paine Field for the year 2008 which were produced after the 2002-2021 Airport Master Plan Update. The report for these NEM's (available at painefield.com) includes the INM data input file.

Lori Kaiser asked if the lack of significant numbers of night (10 p.m. – 7 a.m.) flights at Paine Field would have the effect of understating the noise impacts during the daytime hours. Mr. Dunkelberg noted that the NEM's include a fair amount of night activity (much of it is between 10 and 11 p.m.) and also a substantial amount of growth in Boeing and Goodrich related flight activity (6,000 operations in 2008 vs. 3,443 in 2000) which is the primary driver in the size of the DNL noise contours. He indicated that the INM could produce a contour for the 15-hour daytime (7 a.m. – 10 p.m.) period.

Mr. Dunkelberg continued his presentation describing the regulatory environment for airports. He explained how the FAA requires airport sponsors to agree to a set of 32 Assurances with each grant for capital improvements at the airport and that those assurances run for 20 years. He noted that similar assurances are contained in deeds when the FAA provides the land for the airport and that in those cases the assurances are forever. Mr. Dunkelberg focused on the economic nondiscrimination assurance which requires the airport to be kept available on a non discriminatory basis for all types and classes of users.

He described Federal Air Regulation (FAR) Part 77, which protects airspace for safe aircraft flight by requiring a notice to FAA and their review of all construction over 200' tall and of shorter objects near airports. Mr. Dunkelberg noted that FAA is not a land use control authority and that it is up to local jurisdictions with that land use control authority to adopt zoning that protects against obstructions to navigable airspace

Mr. Dunkelberg then discussed the FAR Part 139 Airport Certification program. Part 139 certificates are an assurance for aircraft operators that the Airport meets FAA design and

operation standards for safety. The certificate indicates the airport's commitment to meeting these safety standards. Snohomish County is obligated to meet these standards by the Boeing company joint use agreement. The Part 139 certificate enhances the County's chances when competing for FAA grant funds for capital improvement projects.

He explained that since Congress passed the Airport Noise and Capacity Act (ANCA) in 1990, local jurisdictions have extremely limited ability to impose mandatory restrictions on access or flight related noise at airports. In exchange Congress set January 1, 2000 as the phase out date for loud air carrier aircraft (over 75,000lbs). The law sets out a process, called FAR Part 161, wherein jurisdictions need to do an economic cost benefit analysis to justify access restrictions. Such restrictions can only be implemented if acceptable to the FAA as not having an unreasonable impact on interstate commerce. He indicated that the Part 161 hurdle is almost impossibly high and that only one community has been successful. Naples Florida has been successful in getting a Part 161 access restriction plan approved and that was only because it sought to restrict access to old stage 2 (noisy) business jets (under 75,000lbs) that were demonstrated to exceed the communities adopted 60DNL noise standard which was enforced uniformly on all types of noise sources. Mr. Dunkelberg explained that ANCA allowed a grandfathering of restrictions that were in place prior to its adoption in 1990.

He described the FAA's Part 150 planning process by which airport operators, surrounding communities and the various divisions of the FAA work cooperatively to analyze aircraft noise impacts and develop mitigation strategies. FAA participates in viable operational changes and provides grant funding for mitigation strategies. These strategies include insulation and purchase programs for homes and other noise sensitive uses in areas where impacts exceed the 65 DNL significant impact threshold.

Ms. Kaiser asked about the experiences last year where Southwest Airlines and Alaska Airlines proposed to construct new terminals at Boeing Field and were turned down by King County due to lack of available space and cost to mitigate the cumulative traffic and noise impacts. Mr. Dunkelberg indicated that since neither airline filed a complaint with the FAA on this decision there was no action by the FAA, so any discussion about how King County's action would fare in light of ANCA would be speculative. He did note that there are airspace issues and a close spacing between the runways that would have impacted the airports ability to actually accommodate the operations proposed by both airlines. Members asked who would have had the funding responsibility for off airport infrastructure necessary had those airlines begun service at Boeing Field. Mr. Dunkelberg said he was not aware of specific federal requirements that would require the airline to fund that off airport infrastructure.

As the meeting moved toward conclusion Mr. Doran noted that he would be out of town for the next meeting on April 20. Michelle Robles asked if there would be value to have a web page subcommittee. She also asked that media be invited to meetings of the Panel. Mr. Doran indicated that all materials provided to Panel members would be available on the web page.

The meeting adjourned at 4:35 p.m.

April 20, 2006 Meeting Minutes

MEDIATED ROLE DETERMINATION PANEL SNOHOMISH COUNTY ADMINISTRATION BUILDING EAST FIRST FLOOR MEETING ROOM #1

**April 20, 2006
MEETING MINUTES**

MRD PANEL ATTENDEES

Ray Stephanson	Kevin Laverty	Michelle Robles
AJ Chase	Lori Kaiser	Mark Wolken
John Shaw	Hugh Townsend	

TECHNICAL ADVISERS ATTENDEES

Stephen Kiehl	Stan Allison
Russ Keyes	

SNOHOMISH COUNTY STAFF ATTENDEES

Aaron Reardon	Peter Camp	Donna Ambrose	Mary Lynn Evans
Dave Waggoner	Bill Dolan	Christie Baumel	Jim Maynard

INTRODUCTION

Co-Chair Ray Stephanson called the meeting to order at 2:30pm welcoming members and the public and noting that co chair Don Doran would not be present today. Mr. Stephanson asked for self introductions around the room and then asked for review of the minutes. Kevin Laverty moved for approval of the minutes as submitted and Lori Kaiser seconded the motion. In discussion Michelle Robles noted that the minutes should be corrected to reflect that Rich White did not attend and that the discussion about off-airport infrastructure funding responsibilities should be reflected in the Boeing Field portion of the minutes. Mr. Laverty accepted the amendment and it was seconded by John Shaw and the motion to approve the minutes as revised was passed unanimously.

Mr. Stephanson then asked Peter Camp to introduce the Regional Airport Overview presentation. Mr. Camp has replaced Tom Fitzpatrick as the Executive Director on County Executive Aaron Reardon's staff with oversight responsibility for the Airport and Planning and Development Services (PDS) departments. Mr. Camp noted the Bob Burke, the Director of the King County International Airport (Boeing Field) had a scheduling conflict and was unable to attend but said information on Boeing Field would be covered in Bill Dolan's three airport summary. He then introduced Michael Cheyne, the Director of Aviation Planning at Sea Tac International Airport.

Mr. Cheyne used a Power Point presentation to describe current planning for Sea Tac. He said that his presentation is timely as the Port of Seattle, owner / operator of Sea Tac, has just completed a Comprehensive Development Plan (CDP) which sets the vision for the airport for the 2003-2025 period. He noted a CDP goal of providing user friendly facilities while controlling costs with trigger driven incremental expansion of facilities to meet demand. He explained that airport planners refer to the three legged stool of Airside,

Terminal and Landside capacity and the need to have balanced development of facilities to control costs.

The biggest constraint at Sea Tac is the airfield where the two close parallel runways have a fixed limit of flight operations per hour. The third runway now under construction will only marginally improve that capacity in poor weather conditions with a projected total airfield capacity of about 550,000 annual operations. He explained that prior planning efforts had included consideration of a number of different terminal concepts including remote terminals and a variety of elaborate landside access lane configurations. He described how new powerful computer modeling tools were used in the CDP planning process to assess the facility requirements at full build-out. This process validated the “One Terminal” and “single roadway loop” concepts for the future development of the airport. The computer modeling used a series of assumptions including a stable fleet mix, that three quarters of the passengers would be origin and destination and one quarter would be connecting, and that the load factors (% of full seats) would fall a bit from the recent record levels. A graphic showed how these load factors have continually increased from 69.5% in 1996 to 81.1% in 2005 allowing the airport to accommodate 30 million annual passengers (MAP) this year with the same number of flights as in 1990. Another factor has been the growth in the average size of aircraft using the airport.

The CDP projects that Alaska Airlines and Horizon Airlines will increase their share of the market from 48 to 60%. He explained how the evolution in airline thinking, moving away from a preference for exclusive use gates and counters, to acceptance of common use gates and ticketing kiosks has allowed planners to squeeze extra capacity out of terminal facilities. As this movement continues the average number of turns during the peak month (flight departures per gate) will increase from 5.5 per day in 2005 to 7.7 per day in 2021-2023. The CDP has identified that the airport will reach its 45 MAP capacity in 2021-2023 at the current 3% annual rate of growth. At that time there will be an average annual delay of 16 minutes per aircraft operation making Sea Tac one of the worst delay airports in the country. Mr. Cheyne indicated the CDP is available for review on the web at <http://www.portseattle.org/seatac/expansion/index.shtml> and that he expected a record of decision on the CDP this December.

In response to questions Mr. Cheyne offered a few comments on the Southwest Airlines proposal last year to relocate their flight operations from Sea Tac to Boeing Field. He noted that the Seattle market is an anomaly for Southwest as they have been unable to capture more than an 8-9% market share compared their norm of 30- 40% market share at other airports where they operate. Mr. Stephanson asked for clarification on the issue of costs to operate at Sea Tac which had been identified as Southwest’s motivation for considering leaving. Mr. Cheyne indicated that the average cost per enplaned passenger (CPE) (total costs divided by total passengers equal CPE) for Sea Tac is currently about \$11.50. Development programs included in prior planning efforts had driven the projected future CPE up to \$25. With the new Comprehensive Development Plan’s emphasis on incremental development based on trigger thresholds a number of projects and their associated costs will be delayed. That combined with a different approach to debt financing have the current projections for the CPE at \$15 after the third runway opens in 2008.

Bill Dolan then presented a graphic showing the layouts of the Sea Tac (SEA), Boeing Field (BFI) and Paine Field (PAE) noting that SEA has 2,600 acres and 321,788 operations in 2005 with 12 based aircraft. BFI has 594 acres with 305,000 operations in 2005 with 501 based aircraft, and PAE has 1,284 acres with 152,901 operations in 2005 and 576 based aircraft. He noted that at BFI there was no undeveloped land and that they had 4 times as many corporate jets as are based at PAE. He described BFI and PAE as relievers to SEA which enhances their access to FAA grant funding from the Airport Improvement Program (AIP) for capital improvement projects.

When discussing the runway capacities of the airports Mr. Dolan clarified that the main 9,010' long runway at PAE was the only one capable of accommodating air carrier sized aircraft and that significant lengthening of the other 2 runways or constructing another air carrier capable runway at the airport would be problematic within the current airport boundaries.

Peter Camp then presented an update on the status of selecting an outside consultant to study the potential positive and negative economic effects that could occur if there was commercial air service at Paine Field. He said that the County had issued a request for qualifications (RFQ) and that only one firm, Economic Research Associates (ERA) had submitted a statement of qualifications (SOQ). Review of their SOQ indicates that ERA is a very capable firm which has completed a broad variety of economic impact studies for a long list of public and private clients. Mr. Camp indicated he intended to discuss the SOQ with the panel Co-Chairs to determine what the next step would be. In a wide ranging discussion that ensued Mr. Garnett Hizzey suggested that the panel consider reopening the RFQ with a longer response time. Bill Dolan said that the RFQ was not a request for proposals where a longer response time would normally be necessary to allow firms time to develop a proposal. Mr. Camp said that an SOQ is basically a request for a resume. Mr. Hizzey offered to provide Mr. Camp with a list of a few local firms that might be capable of doing the work. Mr. Dolan also noted that at the second meeting of the panel there was agreement that the scenarios in the forecast chapter of the 2002-2021 Update of the Airport Master Plan would be the basis for the consultants work. He explained that Barnard Dunkelberg Co is currently running the Integrated Noise Model (INM) to generate DNL and LEQ15 noise contours for the year 2021 under 5 scenarios depicting no airline service, regional low air service, regional high air service, national low air service, and national high air service at the levels identified in the Airport Master Plan Update. Mr. Camp encouraged panel members to visit ERA's website at www.econres.com to become more familiar with the firm and let him know of their thoughts. He plans to update the panel on this subject at the next meeting on May 4th.

Mr. Stephanson then asked for the plan for future meetings noting the panel should hear the proposed 30-45 minute presentation from the Save Our Communities (SOC) group and an equal time presentation from proponents of air service. Lori Kaiser asked who would be making the proponent presentation and if they represented a formal group. No specific group was named but Mr. Camp said he would request that individual advocates identify a representative to make the presentation. Mr. Hizzey noted that he thought the Private Enterprise Coalition might be the group. There was a discussion of whether the best time for the presentations would be at the May 4th or May 18th meeting.

Mr. Stephanson reminded that these were presentations, not a debate or point counterpoint and then he suggested that the presentations may include information presented as fact where the panel may possibly benefit from an independent critique by Ryk Dunkelberg. Dave Waggoner indicated that Mr. Dunkelberg would likely not want to be a judge and jury and would not be available for the panels meetings on May 18th or June 8th. He suggested that the panel hear Mr. Dunkelberg's presentation on the Paine Field Master Plan Update's forecasts and the noise contours for 2021 at the May 4th meeting prior to presentations by proponents or opponents. Russ Keyes suggested that the panel consider extending their May 4th meeting and hour to accommodate all three presentations. After further discussion the panel agreed to have Mr. Dunkelberg's presentation at the May 4th meeting and the presentations by the proponents and opponents at the May 18th meeting. Greg Hauth said SOC would be fine with doing their presentation on May 18th. Mr. Stephanson suggested that future MRD panel meetings be taped.

Mr. Camp then presented an update on the efforts to get the public website up and running. He promised to have it operational by the end of next week, indicating he has been tweaking the format with the staff from the County Department of Information Services (DIS). He told panel members they should expect a format very similar to the website for the Charter Review Commission. He also indicated that he plans to have agendas for the May 4th meeting and minutes from the April 20th meeting out within a week.

The meeting adjourned at 4:20pm.

May 4, 2006 Meeting Minutes

MEDIATED ROLE DETERMINATION PANEL SNOHOMISH COUNTY ADMINISTRATION BUILDING EAST FIRST FLOOR MEETING ROOM #1

**May 4, 2006
MEETING MINUTES**

MRD PANEL ATTENDEES

Don Doran	Tom Gaffney	Michelle Robles	Mark Wolken
Ray Stephanson	Tom Hoban	John Shaw	Gary Haakenson
A.J. Chase	Lori Kaiser	Hugh Townsend	(for Deanna Dawson)

TECHNICAL ADVISERS ATTENDEES

Roy Chandler	Carol Key	Stephen Kiehl	Rich White
Ryk Dunkelberg	Russ Keyes	John Sibold	

SNOHOMISH COUNTY STAFF ATTENDEES

Peter Camp	Bill Dolan	Christie Baumel
Dave Waggoner	Mary Lynn Evans	Paula Bond

INTRODUCTION

Co-Chair Don Doran called the meeting to order at 2:35 pm welcoming members. Mr. Doran asked for self introductions around the room and then asked for review of the minutes. Lori Kaiser moved for approval of the minutes as submitted and Hugh Townsend seconded the motion. In discussion Peter Camp advised the protocol for public comment at the beginning of the MRD Panel meeting; speakers need to sign up on the sheet before the meeting begins, with limit of 3 minutes per speaker and 10 minutes total. During the course of the presentations, if an audience member has questions or comments for the folks at the table, jot them down and give them to Mr. Camp. He will then give the items to a Co-Chair to address. This procedure is similar to what the Court systems use for Juries to ask questions.

Peter Camp announced there were 2 speakers signed up to address the MRD Panel. The first speaker was Marko Liias, Mukilteo City Council. He has been following the progress of the panel thru the press. He wanted to urge the panel to focus on the MRD language that can be updated to be more relevant and let the political process address the concerns of the development of the Airport and its activities. The second speaker, Joe Marine, Mayor of Mukilteo reiterated the same as Marko, and that his understanding of the task of the MRD Panel was to clarify but not to expand the activities encouraged in the role.

Ryk Dunkelberg gave the presentation on his recent noise modeling effort. He noted that the data inputs for the Integrated Noise Model (INM) came from the forecast chapter of the 2002-2021 Airport Master Plan Update adopted by the County Council. There are 5 Scenarios in the forecast model for the year 2021. In addition to the four scenarios included in the Master Plan Update he included one that had all the projected general aviation operations (ops) but no airline service called the "base case". The base case is included in each of the other 4 scenarios.

- Base Case – no commercial passenger service but does include growth of large aircraft by Goodrich & Boeing, and general aviation. 347,714 ops per year. (952/day) [1 landing or 1 departure is 1 op, touch & go's would be 2 ops]
- Regional Service Low – base case plus airline service to regional destinations [500 miles or less], for passengers living within a 30 minute drive time, flying primarily on aircraft with less than 60 seats. Approximately 11,462 annual passengers on 11,462 airline ops (16 arrivals and 16 departures per day), 359,176 total ops.
- Regional Service High – base case plus airline service to regional destinations, (500 miles or less), for passengers from the airports catchment area including Snohomish, Skagit and Island counties and people in King County within a 30 minute drive time of the airport, primarily on aircraft with less than 60 seats. Approximately 239,000 annual passengers on 17,975 air carrier ops (25 arrivals and 25 departures per day), 365,689 total ops.
- National Service Low – base case plus airline service to regional and national destinations for passengers living within a 30 minute drive time, flying on smaller planes to regional destinations and larger 737 size planes to national destinations. Approximately 996,000 annual passengers on 27,858 airline ops (38 arrivals and 38 departures per day) 375,572 total ops.
- National Service High – base case plus airline service to regional and national destinations for passengers from the airports catchment area including Snohomish, Skagit and Island counties and people in King County within a 30 minute drive time of the airport, , flying on smaller planes to regional destinations and larger planes to national destinations. Approximately 1,562,219 annual passengers on 43,687 airline ops (60 arrivals and 60 departures per day) 391,401 total ops.

Mr. Stephanson inquired about the airline operating hours assumed in the computer model of the various scenarios. Mr. Dunkelberg noted that the Integrated Noise Model (INM) applies a 10dBA penalty to nighttime noise events (between 10 pm and 7am) in the DNL contours and confirmed that the model assumes nearly all airline flights are during the 15 daytime hours (7am-10pm) but that in the national low and high scenarios a few more flights are assumed at night to make east coast connections. Ms. Kaiser asked if there was capacity to accommodate these airline operations and Mr. Dunkelberg indicated that the airport generally has enough capacity and that capacity challenges translate to delays so when things are running smoothly there are no delays but when capacity is stretched, hiccups can more easily cause delays. He also explained that after a question was raised at the April 6th meeting asking is DNL understated airport impacts due to the relative lack of flight activity at night; he had also run the INM model for the 15 daytime hours from 7am to 10pm.

It was agreed that the busier times for the Ops would be likely be bunched into a few concentrated periods in the morning 7-9am and early evening (5-8pm) for business travel regardless which scenario was used, and the roadway vehicle traffic would likely be

proportional to the number of passengers. A question was raised about how this data compares with the 2004 market study by Mead Hunt which said there are 7,000 passengers per day in the airport's catchment area. Bill Dolan stated that the data presented here is projections for the year 2021 that were developed in the 2002-2021 Airport Master Plan Update. He said the 2004 Mead Hunt study counted the # of tickets purchased in 2003 and is not reflected in this data.,

Mr. Dunkelberg described the aircraft differences in the various scenarios.

- Regional Low and High: Generally aircraft with less than 60 seats. Dash 8-200/400, CRJ 700 type aircraft.
- National Low and High: Dash 8-200/400, CRJ 700 type aircraft for short stage flight lengths (<500 miles); and CRJ-700, B737-700-900 type aircraft for longer stage flight lengths (500 miles and greater)

When asked why these aircraft were chosen for use in the INM model, Mr. Dunkelberg replied that the model is a forecast thru 2021 and it uses the aircraft likely to be operated in 2021. The Alaska Air Group (Alaska Airlines and Horizon Airlines) which is the dominant carrier in the Seattle market flies these aircraft. The model was run assuming some heavier flights with longer stage lengths to provide a most reasonable worst case noise projection for the scenarios.

He noted that the louder noises from large jet aircraft tend to be the primary driver in the size of the noise contours.

Mr. Dunkelberg then presented a series of graphics showing the noise contours generated from the INM for the projected numbers of operations in the year 2021 under those 5 scenarios. Included on these slides were the number of acres within the noise contours and the population within the contours projected by the County's GMA Comprehensive plan for the year 2025. These included:

- ⇒ Comparison of all 5 scenarios 65DNL noise levels remain on Airport and Boeing property. do not leave Paine Field property on any of these scenarios. He explained that the 65DNL is the threshold for planning for compatible development but noted that some communities have chosen to use 60DNL and a few have even chosen 55DNL for land use planning restrictions.
- ⇒ Base Case scenario showing 60 and 55 DNL, and 60 and 55 LEQ15 contours This slide also contained a contour showing the Airport's FAR Part 150 adopted Noise Exposure Map projection of 2008 impacts,. In each scenario the LEQ15 contour area was slightly smaller than the DLN contour area.
- ⇒ Regional Low scenario showing 60 and 55 DNL, and 60 and 55 LEQ15 contours.

- ⇒ Regional High scenario showing 60 and 55 DNL, and 60 and 55 LEQ15 contours.
- ⇒ National Low scenario showing 60 and 55 DNL, and 60 and 55 LEQ15 contours.
- ⇒ National High scenario showing 60 and 55 DNL, and 60 and 55 LEQ15 contours.
- ⇒ Table summarizing the acreage and year 2025 projected population within each DNL contour for each of the 5 scenarios. He explained that he normally doesn't use projected future populations for this type analysis but because the data is available in an officially adopted land use plan he used it here to show a worst case. It should be noted that these year 2025 projections reflect substantial growth as the GMA has forced the county to push the bulk of the 50% countywide population growth into the urban areas
- ⇒ Table summarizing the acreage and year 2025 projected population within each LEQ15 contour for each of the 5 scenarios
- ⇒ A slide containing the 55DNL contours for each of the 5 scenarios.

As he showed the slides Mr. Dunkelberg noted that the east and west edges of the contours don't change perceptibly between the 5 scenarios but explained how the change was most noticeable at the south end of the 55DNL contours where the Base Case contour extended to 150th Street---S.W., Regional Low contour extended to 151st Street S.W., the Regional High contours extended to 152nd Street S.W., The National Low contour extended to 163rd Street S.W., and the National High contour extended to 168th Street S.W.

The next slide was the Conceptual Development Plan map from the 2002-2021 Airport Master Plan Update. It showed the Airport in detail with, blue shading of the areas for aviation purposes; green shading for the areas used for aviation compatible type development (i.e. parts suppliers, avionics and instruments vendors).

The last slide contained two noise contours. The larger one showed the noise contour forecast for the year 2000 that was developed with the 1980 Airport Master Plan. The much smaller contour showed the noise forecast for the year 2008 that was adopted by the County Council and FAA as the Official Noise Exposure Map (NEM) for the year 2008 that was developed as part of the 2002-2021 Airport Master Plan Update. It was noted that the larger contour had been the basis for the zoning established around the airport in the early 1980's.

Peter Camp then introduced Mary Lynne Evans, the manager of GMA compliance in the County Department of Planning and Development Services, to discuss the Growth Management Act (GMA) and Comprehensive Plans around the Airport. Ms. Evans gave an overview of the presentation, the GMA requirements and the Snohomish County update for the long range plan. "The GMA established a structure for all future land use planning in Washington State. The Act required that all planning activities be based upon 20-year

population and employment forecasts developed by the Office of Finance and Management (OFM) using 1990 census numbers.” The GMA has 13 general goals including protection of rural areas, reduction of sprawl, provision of adequate roads and services to new development. Snohomish County’s GMA Comprehensive Plan has 5 parts:

- ⇒ General Policy Plan – guidelines for future developments
- ⇒ Future Land Use – depicts land use over next 20 years
- ⇒ Capital Facilities Plan – inventory of facilities, establish service standards for public facilities, and prioritize future facilities needed, and facilities difficult to sight including new facilities or expansion of existing sites
- ⇒ Parks and recreation Element – park and recreational planning guidelines

She explained that the GMA requires jurisdictions to accommodate the location and expansion of Essential Public Facilities (EPF’s). Avenues for Cities or Citizens to object to these facilities are thru the political process, but that doesn’t allow the County to “say no” to necessary facilities either expanding or building new sites. Mr. Doran took issue with that comment, stating the County can choose not to expand a facility that it owns and that the process allows consideration of all the cumulative impacts of multiple EPF’s in a community.

Christie Baumel, senior planner at PDS then gave the second portion of the presentation on the GMA on Future Land Use in the areas around the Airport. She described the sections of the comprehensive plans adopted by the County and the cities of Everett and Mukilteo as they relate to the GMA requirement for accommodating Essential Public Facilities and the requirement for jurisdictions adjacent to general aviation airports to plan for compatible land uses adjacent to the airport.

Snohomish County’s Comprehensive Plan General Policy Plan includes a Capital Facilities Goal 8 “to develop investment strategies to support and enhance its role as a general aviation and industrial commercial facility consistent with the Airport Master Plan” The City of Mukilteo’s comprehensive plan designates industrial uses, and it’s opposition to commercial use or physical expansion of the Airport and to be active with the Paine Field planning to limit flight patterns and operations. The City of Everett Comprehensive Plan supports the Paine Field Master Plan Update, anticipates a reevaluation of the MRD and discourages incompatible land uses around the airport. The County Planning Department is available to discuss land uses and help others develop comprehensive land use plans Ms Baumel used a map of the area with color coding of the different land use categories. Also included was the Official FAR Part 150 Noise Exposure Map (NEM) for the year 2008. Bill Dolan noted that due to poor economy the operations in 2004 were down to approximately ½ of those forecast for 2008 and that only about 3,500 of those were big jets from Boeing and Goodrich where the year 2008 ops include 6,000 Boeing/Goodrich operations. Requests were made from the panel to have PDS enhance the map by adding a higher

resolution of residential densities, manufacturing industrial centers, the 2021 projected noise contours and proposed annexation areas.

Mr. Camp briefed the panel on a consultant selection. He has reviewed the statement of qualifications (SOQ) from Economic Research Associates (ERA), the only firm that responded to the County's request for qualifications (RFQ). He had also reviewed their report on a similar project they did for the Contra Coast County in California dated 6/15/2000 reviewing the impacts their airport has on the community. He said it didn't appear to be as balanced a report as we are likely looking for here as it did not reflect some impacts like vehicle traffic. This was the only company that applied, however there have been a couple of other consultants' inquiries since the application time expired. We are at a "Fork in the Road"; do we open another RFQ to get a larger consultant pool? Do we go with ERA? Do we have a good outline of expectations for the consultant – or are we premature and need to better define the questions for the study? Discussion ensued:

Michelle Robles asked why are we going to a consultant? Aren't we supposed to be looking at the MRD document? Maybe we should wait until we can ask the right questions.

Russ Keyes stated that the panel's objective is to make the MRD document relevant to current times, to interpret the contents and determine if it needs to be amended.

Gary Haakenson, Mayor of Edmonds, asked when are we going to review the MRD?

Lori Kaiser commented she is respectful of the business community travel needs, but feels it is premature in engaging a consultant at this time. We need to decide what information should be studied to defend any decision the panel makes. Also, it is worrisome only having one consultant to pick from.

Peter Camp – it sounds like we should leave the RFQ for now, not move on a consultant until the 6/1 meeting. Come prepared to that meeting to review the MRD and suggest whether it should be "tweaked" or rewritten.

Mr. Camp advised that there will be 2 presentations at the next meeting 5/18/2006. There are 2 45 minute presentations by the Save Our Communities (SOC) group. The next two meetings only have the use of the Public Meeting Room 1, which severely limits the # of participants, and would not be audio taped (audio equipment is in the 2nd room). It was suggested that perhaps we could use one of the PUD rooms, he will check on other locations and advise the panel. It will also be posted on the website on the 5/18 agenda.

Mr. Camp gave an update on the MRD website - It is operational, the goal is the week after the MRD Panel meeting to have the minutes and agenda for the next meeting on the website. http://www1.co.snohomish.wa.us/County_Services/MRD/Information/

Snohomish County Washington

Mediated Role Determination: Paine Field

Enter Keywords

Home About The County Services A-Z County A-Z Links Popular Services Print Version

MRD Menu

County Links

MRD

- Information
- Meeting Agendas
- Meeting Minutes
- Presentations

- [Meeting Presentation Materials](#)
- [Meeting Agendas](#)
- [Meeting Minutes](#)

Shortcuts

- ↕ Related Links
- ↕ Related Services
- ↕ Related Maps
- ↕ Related Media

Snohomish County, Online Government Information & Services

[County Home](#) | [Contact Us](#) | [Privacy Statement](#) | [Site Information](#) | [Feedback](#)

Main: 425-388-3411 or 1-800-562-4367, TTY 425-388-3700
Snohomish County, 3000 Rockefeller Ave, Everett, WA 98201, [Get Directions](#)

The meeting adjourned at 4:35pm.

May 18, 2006 Meeting Minutes

MEDIATED ROLE DETERMINATION PANEL SNOHOMISH COUNTY ADMINISTRATION BUILDING EAST FIRST FLOOR MEETING ROOM #1

May 18, 2006

MEETING MINUTES

MRD PANEL ATTENDEES

Don Doran	Tom Gaffney	Michelle Robles	Mark Wolken
Ray Stephanson	Tom Hoban	John Shaw	
A.J. Chase	Lori Kaiser	Hugh Townsend	
Tom Gaffney	Kevin Laverty		

TECHNICAL ADVISERS ATTENDEES

Stephen Kiehl	John Sibold
---------------	-------------

SNOHOMISH COUNTY STAFF ATTENDEES

Peter Camp	Bill Dolan	Donna Ambrose
Christie Baumel	Mary Lynn Evans	Nona Anderson

PRESENTERS

Greg Hauth	Hans Toorens
------------	--------------

Minutes for May 18, 2006

Co-Chair Don Doran opened the meeting at 3:57.

Noting the considerable delay in the start of the meeting he indicated the agenda would be modified to only include the presentations by the Save our Communities (SOC) and Private Enterprise Coalition (PEC) and that member questions for the speakers would be handled in written form prior to the next meeting.

Peter Camp apologized for the delay and said that the District Court had received a bomb threat which required evacuation of the campus for inspection to insure public safety, and it delayed the start of the meeting one and a half hours.

Donna Ambrose noted that County Executive Aaron Reardon had another commitment and was unable to attend but asked that the Panel be mindful of its purpose, which is to review the Mediated Role Determination and make recommendations on improvements to the document that will make more understandable and relevant rather than to decide whether or not there should be air carrier service at Paine Field.

Greg Hauth, vice president of the Save Our Communities (SOC) group then made the first presentation to the panel. In his power point presentation titled "Preserve Our Quality Of Life" he explained that SOC has been active for over 12 years opposing air carrier service at Paine Field. He noted that SOC is composed of thousands of concerned citizens from areas near the airport extending well beyond the city of Mukilteo. He said that resolutions opposing air carrier service at Paine Field have been passed by the cities of Mt. Lake Terrace, Mukilteo, Edmonds, Lynnwood and Woodway which include approximately 115,000 people. Mr. Hauth stated that the SOC presentation is based on facts taken from studies. He passed

out large briefs including those resource documents to all the panel members along with a book titled “Take Back the Sky”.

Mr. Hauth went on to describe the 1978/1979 MRD as a promise made by the County to the people, which successfully balanced the needs of government, business and homeowners by promoting a quality of life and economic development and how in a way it was the original Growth Management Act. He stated that it’s impossible to support air service expansion and claim to support quality of life. He noted that the Mediated Role has been reaffirmed in 1989, 1992, 1995 and in 2002 and that the MRD is a unilateral promise that has been reinforced with every new home and business built in the area and displayed aerial photos from 2001 and 1981 of the Paine Field area which showed the difference in the amount of developed land in the area.

SOC (Save Our Community) has been around for a long time and has spent a lot of time and money meeting with the FAA, State, County and local officials. They also hired a land use attorney as well as a consultant that is an expert on FAA regulations in an effort to understand the rules and regulations.

He then described starting air carrier service as a Lop-sided bet analogous to 1 in 12 chances of winning \$1,000 with an 11 in 12 chance of losing \$1,000,000 and asked why would we jeopardize our quality of life for those odds? We have it all right now, quality of life and a growing economy. He stated that the risk of a loss of an average \$ 2 million dollars per year of FAA Grant money for airport construction projects is tiny compared to the risk of loss of quality of life and economic impacts associated with air carrier service.

He said that while some say because there is no counter party to the MRD it is a policy but not a legally enforceable contract, that SOC wants to hold the County accountable to the MRD commitments as a social contract. He said that statewide and regional planning which reflect the MRD does have legal status. He described GMA as a cascading hierarchy of sustentative and procedural requirements of regional, county and city comprehensive planning. He went on to say that after studying the issue of air service capacity in the region the PSRC adopted binding language in resolution A-93-03 as a component of the regions Vision 2030 plan which determined that Sea Tac’s 3rd runway was necessary and removed all small supplemental airports, including Paine Field from the plans preferred alternative for meeting future air carrier demand.

Using a series of slides Mr. Hauth addressed what he described as myths vs. reality. He described the myth that it is the FAA’s decision and the County can’t preclude commercial service and showed a portion of a letter from Carol Key, Washington Section Supervisor at the FAA that states that the FAA would not force the county to change the role of the airport. He said the County can discriminate against flights by air carriers and pointed to cases where Centennial and Scottsdale said no to air carriers as examples that the County has the ability to decide on the role of the Airport, not the FAA and said he was not aware of any airport having been forced to repay prior grant monies for having said no. In reality to remain compliant with FAA regulations the County must allow the carrier the use of the runway and existing facilities, but does not have to build facilities, issue permits or encourage commercial service. And, he said that by allowing an airline in the County voluntarily relinquishes its control because once it opens the door it would be hard to close it. Once an

airline is located here, it can use the FAA regulations to expand without limitations the number and type of flights.

He said if the county fails to put in the proper economic controls and assertive rights, we will irrevocably open the door. We can remain compliant by strongly discouraging rather than prohibiting and that is precisely the wording of the MRD right now.

SOC wants to see the County take control and not simply say the FAA is in charge of this. SOC's recommendation is that any future air service provider pay for all costs of required infrastructure, lost property values, educational issues, health impacts, security and environmental impacts. He said that is going to be expensive that Southwest Airlines can't afford it but if it is not a good business plan for them, why should it be a good business plan for us? We don't want to subsidize them. He cited a King County councilman Dwight Pelz's "no way in hell" quote on the Southwest Airlines proposal for Boeing Field operations as the type of leadership SOC is expecting from our county government.

Mr. Hauth proceeded to discuss aircraft noise and noted that people respond to single event noise but the discussion presented on aircraft noise impacts is always DNL cumulative noise impacts. He described a 747 on takeoff as around the same noise level as a lawnmower but explained that the averaging in DNL understates the noise impact leading one to think it should not bother you. He noted that the availability of FAA funding for noise mitigation in areas above 65DNL is motivation for keeping those 65DNL contours small. He described studies SOC has reviewed that show aircraft noise impacts reduce property values 10-25%.

In discussing who will pay for the costs of air service financially he said are the studies hard and fast – no. Are they out there? Yes and if we use a conservative 10% devaluation of neighborhoods affected in the flight path it could amount to one billion dollars in lost property values. That is paid for by all of us and it also means lower tax revenues for local cities, which means fewer funds for public services (police fire, etc). He described this as the start of a downward spiral just like around Sea Tac where the Highline School district reports that airport noise costs are \$200,000 just because of third runway.

He described other costs the County would incur for scheduled air service at Paine Field including extending a light rail spur to the airport projected to cost \$400,000,000. He explained that while all the stakes are not fully understood, the studies indicate the odds are stacked up to make a lop-sided bet. He encouraged members to read the Take Back the Sky book he distributed which described environmental health effects reported in residents of the industrial districts around Boeing Field including substantially higher than citywide incidence of asthma, pneumonia, respiratory disease and pregnancy complications. He cited reports of impacts of chronic high noise levels on learning, sleep deprivation, stress and behavioral problems and noted that the Mukilteo School District has over 14,000 students and is growing.

Mr. Hauth summarized SOC's analysis of the costs and benefits of air service at Paine Field as over 1.6 billion in estimated liabilities plus a number of unknown social, educational medical and infrastructure costs which greatly out weigh the potential benefits of continued \$2 million per year FAA funding and some service sector jobs for airport support personnel like rental car operations.

He said the air carriers are not going to subsidize this venture - we will. And while we don't fully understand all the risks we know the odds are stacked against a favorable outcome for our quality of life

SOC recommends that the solution to the MRD update is the Interlocal Agreement (ILA) which the city of Mukilteo drafted and passed which has been sent to the County Council. It would still emphasize the GA role for Paine Field and it would still continue to strongly discourage all other roles such as air cargo or scheduled air carrier service. The ILA would make these ideas binding.

In closing Mr. Hauth said, don't gamble away our quality of life. We feel that air carrier service expansion will negatively affect us and cost us a lot of money, it will cost us economically and it will cost us with all areas of quality of life. He asked members to remember that quality of life means we support job growth; what the Boeing Company is doing, what Goodrich does, etc.; but, we are saying it means more than that. We have that.

We have it now; we have the economic development and the great community right now. Why risk that? The MRD gives us that balance; we are saying that was the deal. A deal is a deal. Now we want the ILA to seal the deal, let's make the MRD into a binding document. County Executive Aaron Reardon says let's bring the MRD up to date for the GMA.

After a brief period MRD panel member Tom Hoban introduced himself as a medium size business owner in Everett and a founding member of the Private Enterprise Coalition (PEC) of Snohomish County. He described the PEC as a group of 150 small and medium sized business owners in Snohomish County. The group is united by a common goal an improved Quality of Life.

He indicated that the part that is missing in the previous presentation is the lost opportunities. These lost opportunities have affected his business. We hope to share these stories of lost opportunities that arise because of the hassle factor of getting back and forth from Sea-Tac. We are the front end of recruiting business opportunities. When these businesses are lost, so are jobs. These jobs might have been your children's or your grandchildren's. These jobs are going to King County when they should be going to Mukilteo, Everett, Monroe, and other places in our county.

The PEC sees the Mediated Role Determination Panel as a place to do the fact finding.

Mr. Hoban introduced Hans Toorens a business consultant from Monroe and PEC member who made the PEC power point presentation titled "Improving Access to Commercial Air Service to Residents and Businesses of the North Puget Sound Region". Mr. Toorens described he is interested in the subject because of a frustration caused by increasing traffic delays and its impact on his business. As a business consultant for high tech companies he has spent 30 years in business development and marketing and sales management world wide for large and not so large companies. As such he is dependent on reliable air transportation. Mr. Toorens described that 30 years ago the commute from Monroe to Sea-Tac took about 45 minutes. Today I will miss a flight if I don't plan on three hours. On many recent trips it has become necessary to get there the night before. In business you can not afford to miss a flight.

He said that as a business consultant focusing on high tech companies and high wage companies he finds that many of these companies, if not most, require easy access to air service. Proximity to Sea Tac is a big factor in why most are located in King county or south. I really believe that Snohomish County needs a better infrastructure. In order to help the county grow the Coalition believes it needs good access to regular air transportation which will be a catalyst to growth.

Mr. Toorens said Snohomish County is clearly at a disadvantage, He noted that 40% of Snohomish county resident jobs and 50% of the Snohomish County resident wages are in King County. Snohomish County doesn't really get a lot of new businesses because people flock to airports, especially businesses, they cannot afford to have their employees and CEOs waiting in cars on the congested freeway. You know that the situation traveling to Sea-Tac is bad and getting worse. This is a county wide impact. I-5, 522 and 405 these highways simply do not work for quick access to Sea Tac. He said that major corporations bring their new plants and jobs to places where there is access to air transportation and increasingly, as road transportation deteriorates, those places are not in Snohomish County. High tech companies paying big salaries need to locate around airports to be connected to the world.

He asked and answered a series of rhetorical questions. Is there a viable market for air service at the Snohomish County airport, will it have enough traffic? And said a study was done by Mead & Hunt that identifies that there is a viable market for regular air service. He told panel members not to think of it as regular air service on a scale like Sea-Tac, but rather as regional and west coast flights. He described how fast the county population is growing, (to 654,000 at the end of last year) exceeding expectations and how population in the year 2015 is projected to increase another 39% to 910,000.

He described the Snohomish County Airport as an underutilized asset and emphasized it is not just a local asset, but a county-wide asset and said we should understand the opportunity cost of not fully utilizing such a facility which he described as superior to Boeing Field (BFI) because it has lots of capacity, lacks the airspace conflicts with Sea Tac that occur at BFI, and has better road access than BFI.

He described over \$300 million invested in road improvements around the airport much of which was for accommodating Boeing plant related traffic volumes that won't likely occur in the future. He said that the obligations the County accepted when receiving the land and over \$50 million dollars in federal grants for airport improvements since 1949 had put the airport under federal jurisdiction regarding discrimination.

On the subject of federal requirements he went on to say that the airports FAR Part 139 operating certificate meets its contractual obligations with Boeing and then discussed federal regulations on aircraft noise. He explained how with the 1990 Airport Noise and Capacity Act (ANCA) the United States Congress provided for the phased elimination of noisy stage 2 aircraft by 2000, established tough criteria for noise and access restrictions at US airports and disallowed discrimination of use or legal constraints to commercial service.

He then showed graphics depicting how much quieter the new stage 3 and 4 aircraft are compared to the earlier stage 2 aircraft, and how the phase out had dramatically reduced by

95% the number of people nationwide exposed to significant (>65DNL) levels of aircraft noise even while the total population increased 20%. He stated that the MRD was based on 1978 and future projections of noise impacts that included those loud stage two aircraft like the 707 and 727. He graphically depicted how the relative size of areas exposed to maximum single event noise levels of 75dba or greater had been reduced from 49 square miles from takeoffs of an old phased out stage two 727-200 to only 3.4 square miles from take offs of a new stage three 737-700 which has a comparable number of seats. The graphic also showed the CRJ 700 with 1.5 square mile and the Dash 8-400 with .03 square mile impact areas and noted those are the smaller aircraft the Mead & Hunt market study identified as the types likely to be used in regional service at Paine Field.

To support his claim of federal control he showed excerpts of legal opinions previously published by the county from former special deputy prosecuting attorney Ed Level explaining the requirements for non discrimination. To illustrate the change at Paine Field from the removal of stage 2 aircraft and the airports noise abatement program he showed a map with the 65DNL contours from the 1980 forecast for the year 2000, and the much smaller 2002 forecast for the year 2008 including regional low levels of air service.

The goal of the PEC is to provide the residents, the families and the businesses in Snohomish County with an efficient alternative to Sea-Tac. Sea-Tac is not a practical solution with its three hour commute.

As a result of that we can position Snohomish County as an up to date and attractive and cost effective place to do business. To do business generates jobs, jobs generate income. The projected growth of Snohomish County is from 654,000 to well over 900,000 people over the next few years. These people will need jobs. Those jobs should be here in Snohomish County. The road infrastructure from here through Seattle doesn't currently adequately support the hundred thousand + of those who commute to King County which will continue to grow with our population growth.

With an improved situation around Snohomish County supporting growth and a better infrastructure, it is very likely that a higher number of high tech companies paying good wages will settle in Snohomish County. The opportunity does exist for Snohomish County as a whole, not only the local region around the airport. It is the county, the families, the businesses, the people that live here that need an economic base. He said it will encourage new businesses to locate here while many high tech businesses that locate in Seattle and King County when I ask them why they locate there not here, verbatim, they answer "because of the proximity to the airport".

The Private Enterprise Coalition of Snohomish County recommends that the Snohomish County Executive and County Council take appropriate steps to develop and stimulate commercial air service at the Snohomish County Airport.

In summary Mr. Toorens reiterated that the grant assurances and ANCA prohibit discrimination, He restated that the availability of scheduled air service at Paine Field will facilitate the location of new businesses and associated jobs to Snohomish County, that those jobs will stimulate the economy and tax revenues for public services, that the service will reduce regional road congestion by people otherwise headed to Sea-Tac, all of which will

improve the quality of life and business climate for residents, families and businesses in Snohomish County. “We must allow Snohomish County Airport to help develop Snohomish County.”

Peter Camp then offered Mr. Hauth an opportunity for a brief rebuttal to the PEC presentation. Mr. Hauth stated SOC is not against air service in Snohomish County, just air service at Paine Field. In fact HB 5121 authorized a new site selection committee to study the issue and look at alternatives. Where would we build a new airport? He encouraged looking at other out of the box solutions. He noted that in 2009 the third runway will be online and light rail is coming to Sea-Tac and that could expand the service.

He said we have other solutions we would be glad to present. If it is a ground transportation problem, we can overcome that. If it is an air transportation problem, we have already invested billions in overcoming that.

The last thing is, if someone is going to say that this is going to promote business, because business is located near an airport, we are simply saying “back it up with facts, everything we are saying we back up with facts”.

As a licensing officer at UW most businesses wanted to be right by the University. We do not see Microsoft, Amazon by an airport.

If this is going to bring in a lot of revenue, if Paine Field specifically is going to be expanded, to help us out we need to see the numbers. He concluded by saying there are billions at stake here and it is a lop-sided bet.

Mayor Stephenson then began to wrap up the meeting; he encouraged the panel to prepare your questions based on today’s testimony. It is important that we square what we heard today with information from the past. Some of the information today is opinion. We have talked about finding a professional that could help us understand a like situation in a like community. And give us an evaluation of the impact of commercial air service. We will continue the discussion at the next meeting on June first.

Don Doran said the panel should formulate questions and get them to Peter Camp ASAP so that they can be passed on the speakers for answers at the June 1 meeting. He asked the panel to please come prepared to discuss the MRD document. What should be included or removed to make the MRD more contemporary.

Mayor Stephenson commended the participants for their respect for each other’s presentation.

Minutes of the May4th and May 18 meetings will be reviewed / approved at the June 1 meeting.

The meeting adjourned at 5:05 p.m.

June 1, 2006 Meeting Minutes

**MEDIATED ROLE DETERMINATION PANEL
SNOHOMISH COUNTY ADMINISTRATION
BUILDING EAST
FIRST FLOOR MEETING ROOM #1
June 1, 2006
MEETING MINUTES**

MRD PANEL ATTENDEES

Don Doran	Tom Gaffney	Michelle Robles	Mark Wolken
Gary Haakenson	Tom Hoban	John Shaw	Kevin Laverty
A.J. Chase	Lori Kaiser	Hugh Townsend	Rich White

TECHNICAL ADVISERS ATTENDEES

Stephen Kiehl	Russ Keyes	John Sibold
---------------	------------	-------------

SNOHOMISH COUNTY STAFF ATTENDEES

Peter Camp	Bill Dolan	Cindy Ringstad	Donna Ambrose
Dave Waggoner	Mary Lynn Evans	Nona Anderson	Geoff Nelson

PRESENTERS

Greg Hauth	Hans Toorens
------------	--------------

Co-Chair Don Doran opened the meeting at 2:32.

Pat McClain was in attendance in Mayor Stephanson's absence.

John Shaw moved to approve the minutes of May 4.

Tom Hoban seconded the motion, and the vote was unanimous for approval.

Peter Camp stated that the purpose of the Panel is not to decide the future of Paine Field but to review and recommend updates to the Mediated Role Determination (MRD) Panel.

Don Doran opened up the meeting for public comments.

Charlie Panczerwski noted that the presentations given by both the Save Our Communities (SOC) and Private Enterprise Coalition (PEC) speakers at the May 18th meeting talked about the "quality of life" being their goal. He asked, "What does that mean?" and noted that billions of dollars have been spent on development near the airport under the current MRD. He said the MRD has worked well for both the economy and growth and the Panel should not change the intent of the document. He noted that infrastructure can't keep up with growth as it is and asked why development should be accelerated? He also wondered asked if we would even have employees to fill these jobs the proponents are trying to attract.

John Quast, a resident of Edmonds and president of Meadowdale Community Club, said he thinks the Panel has lost its way and appears to be reluctant to address the issues of reviewing the MRD. He said that hiring a consultant at this time is without merit. He said that proximity to an airport is a lower criterion for siting hi tech industry than having a four

year college. Mr. Doran noted that there are meetings underway now to address the potential for siting a new four year state college in the north part of Puget Sound and encouraged interested parties to follow and participate in those discussions.

Andy Freem, a south County resident, said the Panel should look at what has occurred since 1979. He said there are more homes and noise is less, but if you are in the flight path even stage three 747 and 767s airplanes are still not quiet. He said Sea-Tac's third runway has added capacity for an extra twenty to twenty-five years. He urged the Panel to consider changes in the MRD to make it more relevant.

Diane Ryder, an Everett resident, echoed earlier comments and encouraged the Panel to focus on the purpose of reviewing and updating the MRD.

Mr. Doran then moved the discussion to the process for conveying the Panel's questions to the SOC and PEC presenters. After discussion, the group agreed there would be thirty minutes for Panel members to provide questions and receive answers from Mr. Hauth from SOC and Mr. Toorens from PEC. The presenters would be able to supplement their verbal answers with written answers to be submitted to Mr. Camp prior to the next meeting. If there are any additional questions members develop after the meeting they should also be submitted to Mr. Camp for distribution to the presenters.

During this discussion Michelle Robles suggested that whatever document proposed by the Panel be clearly identified with the date 2006 on it.

Russ Keyes asked Mr. Hauth about the SOC statement, "A deal's a deal," and asked which documents SOC considers to be included in "the deal"? He asked specifically if the SOC considers the orange covered Paine Field Community Plan ("Community Plan") which had been provided to the Panel to be part of "the deal"? Mr. Hauth responded that SOC considers the 1978 Role and 1979 mediation panels' recommendations to be the "deal". He noted that there is no counterparty signature to the "deal" so it is not legally binding, but SOC feels it is morally binding. He said he would check into Community Plan question and then added that the subsequent Growth Management Act (GMA) comprehensive planning actions described by his presentation as a cascading hierarchy were also part of "the deal".

Mr. Keyes then asked him how SOC feels about the 1979 mediation panels' recommendations, which include encouraging commuter service (defined by the Community Plan's as aircraft carrying up to fifty passengers)? Mr. Hauth responded that SOC views the recommendation to encourage commuter service as a flaw in the document because once any carrier is allowed; the County will be unable to preclude them from expanding.

Michelle Robles stated that the MRD appears to have worked for the past twenty-eight years and noted one of the findings in the Role was that the general aviation role was a good balance of economic growth with the least environmental impact. She then asked Hans Toorens what the PEC sees has changed such that the general aviation role should be modified?

Mr. Toorens replied that ground vehicle access from Snohomish County to Sea Tac has deteriorated during those years to the point where trips now take as much as three hours

from Monroe. He said convenient access to air travel is crucial and that there are also now looming capacity problems at Sea Tac. Ms. Robles then said that traffic is already gridlocked in Snohomish County and asked how the roads could handle additional airport traffic?

Garnet Hizzey from PEC noted that the 1990 Boeing 777 expansion required traffic mitigation of upgrading roads near the airport to accommodate thirty-three thousand workers. He said there are nowhere near that many employees now or likely ever due to improved efficiencies at Boeing and said that the roads have plenty of capacity with the exception of the times around the Boeing shift changes.

Tom Gaffney asked, “What the Panel can legally do and not do? Can we prevent an airline from using the Airport?” He asked about the circumstances of Ed Level’s legal opinion included in the PEC presentation. He noted that those in the legal community who know Mr. Level consider him a brilliant legal scholar. Mr. Camp said he would research the circumstances around the Ed Level opinion and would get that information back to the Panel.

A. J. Chase asked what circumstances would have to change in order for SOC to allow commercial air service at Paine? Mr. Hauth responded that he could not see a way, short of a time machine that would take us back to 1978 so any development could have been avoided that relied on “the deal”. He said the costs of removing those developments now would be prohibitive. He said SOC would support the siting study now underway at the state but SOC wants the problems documented as well as the alternatives.

Don Doran asked John Sibold to give an update on Washington Long-term Air Transportation Study (LATS). Mr. Sibold explained that LATS is a three phase study with the first phase now underway in an inventory data gathering effort. The second phase, which begins next year, will look at demand forecasts and needs of the whole state, focusing on Spokane, Tri-Cities, southwest Washington, and Puget Sound. The third phase (expected to run from mid 2007 until mid 2009) will have a Governor appointed planning council to make recommendations on future statewide aviation needs. The goal is to identify solutions using hard facts and real numbers. Mr. Doran asked if this will be an unrestricted look, not bound by prior decisions, and who will make the ultimate decision? Mr. Sibold noted it would not be restricted by prior actions, but the planning council will understand the prior actions. The Governor will take the final action on the recommendations.

Ms. Robles asked PEC to identify specific companies that chose not to locate in Snohomish County and Kevin Lavery asked if a comparison could be made with north Pierce County, which is closer to SeaTac? Mr. Hoban described “lost opportunities” normally as potential clients choosing Kent or Renton over Snohomish County. He provided two examples of how inefficient access impacts business in Snohomish County. He described how meetings with Maritime Trust, the Chicago firm developing the Everett waterfront, initially occurred in Everett but now occur in Sea Tac to avoid traffic delays. He explained that the CEO of a primate research firm who considered living in Edmonds and operating his business in Everett ultimately chose to locate in south King County because of better access to Sea Tac.

Mr. Hauth stated that everyone cannot not be pleased. The MRD has been successful in attracting and retaining core businesses like Boeing and Goodrich and other aerospace businesses while balancing quality of life for the developing surrounding communities and asked, “Why mess with success?” SOC asks, “What’s the benefit of taking that apart?”

Mark Wolken asked how commuter service would be a problem if the MRD clearly already allows it? Mr. Hauth responded that the County would not be able to discriminate among types of aircraft. SOC wants to amend the clause to say “strongly discourage”. He noted that the County can strongly discourage activities, but not prohibit them and remain compliant with the federal regulations. Encouraging or discouraging activities is not an FAA decision, but a County decision.

Mr. Doran noted that the Q&A period had now extended ten minutes beyond the thirty minute goal, so he asked any members with further questions to forward them to Mr. Camp for the presenters to answer in writing. He then moved on to the next agenda item-- a roundtable discussion to determine how the MRD Review Panel would actually approach the review of the documents. Mr. Camp noted the Panel should probably avoid a word by word group review editing effort in the interest of achieving some conclusion in a reasonable time. He asked Donna Ambrose to describe an approach she had proposed which might efficiently move the Panel through its task. Ms Ambrose passed out a sample sheet showing how the Panel could identify issues associated with the role, identify areas of agreement and areas of disagreement for each issue, and identify work items necessary for those disagreement areas so the same ground wouldn’t be plowed more than once.

Mr. Keyes stated that he had already made an effort to combine the 1978 and 1979 documents in a word file. Lori Kaiser said such a combined document would be a better working platform than the photocopied versions containing the handwritten notes and scratch outs that had been initially provided to the Panel. Mr. Camp agreed to review Mr. Keyes’ file for accuracy and then circulate it to the Panel next week. Ms Kaiser requested that the accuracy review be done at the executive office level.

Tom Gaffney suggested the Panel move ahead because there will never be enough information. What are we going to do next?

Mr. Doran commented that what comes out of the MRD review Panel will be a recommendation to the County Executive. It is possible there will not be a unanimous position and there may even be a minority report or reports.

Mr. Camp then asked if any Panel members had specific portions of the MRD they would like to discuss as they start diving into the document.

Ms. Robles noted that the Community Assistance program listed in A-5 #5 of the MRD document should be discussed, noting the projections for future airport noise show no homes in areas above 65DNL and the purchase assistance and insulation programs listed would only apply to homes in areas above that level.

Ms Kaiser stated that on the premise that we can discourage activities and recognition that the MRD document relates to GMA planning, she thinks the following issues in the

document need the Panel's attention: ensure compliance; noise reduction as a goal; overarching goals; specific terms; intent; professional mediation of "any airport change"; 60 DNL noise limit as standard; citizen advisory Panel, including whether this is or should be the same as the Paine Field Community Council and whether it's members should be appointed by City Councils; encouragement of general aviation; financial discrimination; and consistency and definition of terms, such as scheduled vs. supplemental/charter. She suggested the end product not include "/" combinations of words and should include a clear glossary of terms and categories. She said the Panel needs to understand and state the ways activities should be "encouraged" and "discouraged"

Mr. Shaw said that additional issues should include economic impacts, safety record, any responsibility of the County to the region with respect to the asset of Paine Field, health impacts and legal parameters/impacts (what can we accomplish with what we do?)

Ms Kaiser suggested the policy could become legally binding by adoption of an interlocal agreement. Mr. Wolken said the Airport is not allowed to discriminate.

Mr. Wolken and Mr. Gaffney then said the Panel will need to discuss and understand the opportunities to limit activities that would be legal. What are we legally, reasonably allowed to do?

Mr. Gaffney noted the end product should have a provision for periodic review.

Ms Robles said the Panel will need to understand the impacts on general aviation or Boeing would occur with various levels of commercial service and reiterated the value of a good glossary of terms used. Mr. Keyes said that the Master Plan addresses the capacity and forecast issues and noted the County Council's 2001 adoption of the Regional Low scenario forecast for the master plan stated it was the scenario most consistent with the adopted 1978/9 mediated role determination.

Mr. Camp noted that the County's adoption of the Regional Low forecast was a planning effort required to obtain FAA grants, not a goal set by the County. He then asked Panel members to get any additional questions in by email by the end of the week so he could get them to the presenters.

Meeting adjourned at 4:25

June 15, 2006 Meeting Minutes

MEDIATED ROLE DETERMINATION PANEL SNOHOMISH COUNTY ADMINISTRATION BUILDING EAST FIRST FLOOR MEETING ROOM #1

June 15, 2006

MEETING MINUTES

MRD PANEL ATTENDEES

Don Doran	Tom Gaffney	Michelle Robles	Mark Wolken
Ray Stephanson	Tom Hoban	John Shaw	Kevin Laverty
	Lori Kaiser	Hugh Townsend	

TECHNICAL ADVISERS ATTENDEES

Paul Johnson	Russ Keyes	John Sibold
--------------	------------	-------------

SNOHOMISH COUNTY STAFF ATTENDEES

Peter Camp	Dave Waggoner	Christie Baumel	Donna Ambrose
Geoff Nelson	Mary Lynn Evans	Nona Anderson	

Co-Chair Ray Stephanson opened the meeting at 2:37.

Introductions were made.

Lori Kaiser made a motion to approve the minutes of the June 1 and May 18 meeting.

Tom Gaffney seconded the motion. The vote for approval was unanimous.

Peter Camp reiterated County Executive Aaron Reardon's directive about the Panel's purpose, which is to review the Mediated Role Determination and make recommendations on improvements to the document that will make more it understandable and relevant. It is not to decide whether or not there should be air carrier service at Paine Field.

Public Comments;

Grant Woodfield stated that no airliner has expressed an interest in coming to Paine Field, and that the last commuter operation at Paine Field is no longer in business. He also stated that business at Paine Field is booming and that there are no buildings vacant at Paine. Mr. Woodfield stated that catering is up 400% and the Future of Flight is expecting 200,000 visitors a year. He then referred to the first quarter noise report and stated that the large jets generate the vast majority of noise complaints. He then stated airlines will not go where they are not wanted.

Co-chair Ray Stephanson addressed the Panel; he stated that in being mindful of the Panel's role, which is to review the MRD and determine the validity of it, he feels hamstrung in being asked to do something without all the information necessary. So, for the good of the order and to try to bring direction to the process, Mr. Stephanson made a motion that the Panel request that County Executive Aaron Reardon obtain a new legal opinion by a respected private attorney to determine;

1. Since significant time has lapsed since the inception of the MRD, and many court cases have evolved, what is the validity of the MRD now?
2. What can legally be done to encourage or discourage airline activity at Paine Field?

Mark Wolken seconded the motion and a lengthy discussion ensued.

Lori Kaiser stated that the MRD is one sided. Why are we looking at the legality of the document when we have already established that it is a policy statement and not a legal document? If it was an interlocal agreement (ILA) then we could do a legal test.

Tom Gaffney agreed that it is not a legal document, but that the Panel needs direction in how they can encourage or discourage types of aviation activity.

Lori Kaiser stated that it has already been established that the MRD was a valid policy statement at the time it was developed in 1978, and that it is not a legal document. If it were an Interlocal Agreement it could be put to the test as to legality. Secondly, knowing that the County cannot prohibit aeronautical activity, this same type document (such as the MRD), is generally being used by other communities and they may include the terms "encourage and discourage" (as stated previously by the Barnard Dunkelberg company). The Panel is still waiting for the County's response to this issue.

Co-Chair Ray Stephanson stated that since that language (encourage/discourage) is in the MRD, the Panel needs someone to say if it is a legal, and does it jeopardize the County or the County's relationship with the Boeing Company? Without that information the Panel can't move forward.

Does the ANCA decision in 1992 make the MRD invalid? The situation requires a policy statement on how business will be done, whether it's a MRD or a local agreement, or some other policy, legal guidance is necessary.

Ms. Kaiser asked if independent legal counsel is more viable than information from Ryk Dunkelberg.

Mr. Stephanson stated that it is either valid or it is not. What impact did ANCA have on the MRD? The Panel does not have adequate information to revise the document.

Peter Camp related that the County's perspective on the question of validity of the MRD is that since it is not part of the Charter it is a policy. Because words have different meanings in different situations it is best to refine the question of the opinion. The second part of the Mr. Stephanson's motion is a better one for the independent counsel—how can the County encourage or discourage? Pieces of the MRD have been overtaken by events. What does validity mean?

Michelle Robles compared the MRD to the City's Comp Plan. If we were to say we encourage apartments, does that mean it will actually happen? As the community changes, the document needs to be updated.

Mr. Stephanson sees the MRD as a social contract that the Panel has been asked to review. Maybe review was the wrong question. There have been changes since the MRD—aircraft noise levels, legislation, court decisions, etc. If you are going to structure an MRD the wording needs to be such that it withstands a legal challenge at the risk of losing County control of Airport. The best way to deal with this is get a legal opinion, and not be afraid of the answer.

Don Doran asked if there was a suggestion that the MRD is a legally binding document. He observed that the MRD has been given a lot of weight, perhaps too much, since it is not a legal document. No one is suggesting that the MRD could be used to force the County or Airport into something. Do not spend on something that isn't necessary.

Mark Wolken asked about an apparent contradiction in the MRD. Since the MRD encourages commuters, would the opinion be favorable on a larger, but quieter plane? The answer from Save Our Communities was NO. But, is that answer correct? What box can we build, what are the legal parameters?

Don Doran said “Horizon is a commuter.” Further, the “box is flawed logic”. The idea that by limiting the size of the terminal, the airlines will be limited, is totally flawed. Southwest and Alaska Airlines were willing to put up \$280 million to upgrade Boeing Field. There is no business model that indicates Paine Field is viable.

Lori Kaiser recalled Ryk Dunkelberg's comment “You can't say no.” This means you can't build a “box”.

Ray Stephanson asked “If the MRD means nothing, then why are we here?” We are volunteering a lot of time.

Russ Keyes stated that we are here to blend the two documents and that any policy decisions dealing with scheduled airlines would be done by the county.

Tom Hoban is reluctant to have his name connected with anything that is contradictory to Ed Level's opinion. That opinion was commissioned by the very body that has asked us to review it.

The Panel needs an updated legal opinion.

Don Doran noted that the paper from Ed Level was a letter of resignation, not an official legal opinion.

Tom Hoban said he wanted a legal opinion.

Tom Gaffney wants to know what the Panel can and can't do. What are the basic rules?

John Shaw agrees with Mr. Camp on the legal opinion—task one in the motion is a bottomless pit. Mr. Stephanson has a good point about the changes in aircraft technology and legislation. The County would not want to discourage ethnicity in the workplace or discriminate at the airport. He wants to know if there is a tripwire out there--the Panel needs to know how aviation law affects this document.

Michelle Robles believes that a policy statement can be valid even when it is neither illegal or legal. The County can determine whether the MRD is valid or invalid from their standpoint. In Mountlake Terrace we get SeaTac traffic, not Paine Field traffic.

Ray Stephanson stated that people bought homes believing in the MRD. We need a legal opinion—we can't prohibit. The citizens need to know what can and cannot be prohibited; how accommodating does the County have to be if an airline wants to come. We should not be afraid of the answer.

Hugh Townsend believes that to make the document meaningful and useful a legal framework needs to be established. How can "encourage or discourage" be incorporated into the language and be valid?

Lori Kaiser expressed concern about asking for a legal opinion on how we can encourage or discourage. If the MRD was an ILA then we would really have to look at it closely from a legal perspective. The MRD is a social contract. Do not give an attorney an open ended opportunity. He needs to know "What am I giving an opinion on?" Ms. Kaiser hopes that the Panel would give the attorney very specific guidelines on what the Panel and the County Executive are looking for, and also that her questions (from the June 1 meeting) be answered as well.

Ray Stephanson commented on the need for clarification of the MRD. Considering all the elapsed time, new technology and legislation, is the MRD the appropriate tool to be using? Does it put County control over the Airport in jeopardy?

Lori Kaiser said that Ryk Dunkelberg answered that question when he said that the "encourage/discourage" methodology was commonly used and was recognized by the FAA. It would be a social contract—we can't "prohibit".

Ray Stephanson stated that the Panel is being asked to revise/update a social contract and make recommendations. An attorney would not only validate, he would give the parameters to be used.

John Shaw noted that the material provided by Ryk Dunkelberg was not a legal opinion.

Mr. Camp stated that general questions get general answers. So, the more specific the questions are to the attorney, the better. We cannot prohibit any aeronautical use. Is the MRD the appropriate tool, and the tool to do what?

Mr. Stephanson stated a need to have answers to both questions in his motion (validity of the MRD, and legal limits of county's ability to encourage or discourage air service).

Russ Keyes would like the Panel to agree on the blended document and then take it to the attorney.

Tom Gaffney would like the document, as Russ prepared it, given to the attorney as part of the opinion.

Michelle Robles said she thinks the Panel is walking around an elephant. There are no questions on General Aviation, or Boeing. The real question is “Do We Want to allow scheduled airlines”? What can we do to encourage or discourage air service? Half will be happy, half not happy. The language needs to be cleaned up and requests that the motion be tabled.

Mayor Stephanson agreed that there will be people on both sides of this issue and restated his need for a legal opinion. In order to be respectful of people’s time the Mayor called for the question and a vote on the motion.

Michelle made a motion to split the original motion into two parts and Ms. Kaiser seconded it.

The vote was three to split the original motion and seven opposed. The motion failed.

The vote on the original motion was then taken. It passed by a vote of seven to three.

John Shaw expressed his frustration with the pace of things. He would really like to honor the work that Russ Keyes has done.

Peter Camp will start work on the legal opinion. He told the Panel that in order for a legal opinion to be obtained, the approval of the Prosecuting Attorney and County Council is necessary and that the funding is an issue. There is also a time issue involved, probably the opinion can be attained by August 1. Some of the issues will be:

- Define the scope of work
- What tools are available
- Can the County limit the level of expansion and what is the mechanism to do it
- Eliminate out dated wording (clean up, but not eliminate)
- Lori Kaiser’s list
- Mark Wolken’s toolbox
- Land use compatibility-- What would it look like to adopt 60 DNL.

Michelle Robles asked if GMA would be included in the validity review.

Ray Stephanson said that if GMA is appropriate for the review, the answer is, yes.

Don Doran asked if there was a need for the committee to meet again before the legal opinion is available.

Ray Stephanson thought that was a good question and agreed to cancel the July 6th meeting.

Tom Gaffney said the panel needs the opinion before the next meeting.

Peter Camp made the following comments:

1. We will need PA and County Council approval for the outside legal review
2. We will attempt to complete the legal review in time for a meeting of the MRD Review Panel on August 1.
3. Delta Airlines is now offering service from Bellingham to Salt Lake City.
4. Three MRD documents have been added to the County BRD Review Panel webpage.
 - a. Keyes highlighted MRD
 - b. Keyes DRAFT Blended MRD
 - c. Restated Role for Paine Field Selected

John Shaw stated he was frustrated with the pace of the MRD Review and urged the panel to move through it quickly.

Peter Camp told the panel he would move forward on the outside opinion and outlined the next meeting, which would include the legal opinion, the MRD restatement, Lori's list and Mark's toolbox.

Ray Stephanson restated the questions: "Can airports limit the level of service? How? What are the tools available?"

Hugh Townsend asked a question on land use compatibility—What would 60 DNL look like?

Peter Camp asked Christy Baumel (Snohomish County Planning) to research a 60 DNL model.

Deanna Dawson is now an employee of Snohomish County and will no longer serve on the Panel. Mayor Gary Haakenson will replace Deanna on the MRD Review Panel.

The July 6 meeting is canceled.

Meeting was adjourned at 4:10.

October 18, 2006 Meeting Minutes

MEDIATED ROLE DETERMINATION PANEL

EVERETT LIBRARY

2720 COLBY

October 18, 2007

MEETING MINUTES

MRD Panel Members

Don Doran	Tom Gaffney	Michelle Robles	Mark Wolken
Ray Stephanson	Tom Hoban	John Shaw	
A.J. Chase	Lori Kaiser	Hugh Townsend	

Technical Advisors

Russ Keyes	John Sibold
------------	-------------

Snohomish County Staff

Peter Camp	Bill Dolan	Bailiff, Kerri	Bruce Goetz
Dave Waggoner	Jim Maynard	Nona Anderson	Andrew Rardin

Peter Camp introduced Peter Kirsch of Kaplan Kirsch Rockwell, the Denver law firm hired to answer the questions posed by the MRD Panel. Mr. Camp noted the meeting would be dedicated to Mr. Kirsch's presentation and discussion with MRD panel members and that the next meeting of the MRD panel would provide an opportunity for public comment.

Mr. Kirsch's 32 page memorandum responding to the questions had been provided to MRD panel members. Using a PowerPoint presentation titled "Placing the Mediated Role Determination in a Legal Context" Mr. Kirsch summarized his report for the panel during the two hour meeting. He also provided MRD panel members more general information on the subject by giving them a copy of his firm's book titled "Guide to Airport Noise Rules and Use Restrictions"

His presentation touched on the elaborate array of federal influences and restrictions on the airport and the reserved powers the county has to manage the airport. He noted that many airport owners have visionary policies for their airports and that many use the words encourage and discourage like the Mediated Role.

After the presentation, several panel members asked questions of Mr. Kirsch.

The next meeting will be held November 9 at the County Administration building at 2:30.

November 9, 2006 Meeting Minutes

MEDIATED ROLE DETERMINATION PANEL

Snohomish County Admin Building

First Floor Meeting Room

November 9, 2006

MEETING MINUTES

MRD Panel Members

Don Doran	Tom Gaffney	Michelle Robles	Mark Wolken
Ray Stephanson	Tom Hoban	John Shaw	Kevin Laverty
A.J. Chase	Lori Kaiser	Hugh Townsend	Gary Haakenson

Technical Advisors

Russ Keyes	John Sibold
------------	-------------

Snohomish County Staff

Peter Camp	Bill Dolan	Bailiff, Kerri	Bruce Goetz
Dave Waggoner	Jim Maynard	Nona Anderson	Christie Baumel

The meeting was called to order at 2:35. Introductions were made.

The minutes for the June 15, 2006 and October 18, 2006 were approved.

There were no public comments.

Christie Baumel, senior planner for Snohomish County Department of Planning and Development Services (PDS), distributed a short paper addressing comments and questions raised by MRD panel members at her last presentation to the group in May. She then presented, "Local Legislative Controls: GMA and Paine Field", which described the relationship between state, regional, county and city comprehensive planning and development regulations.

The presentation addressed the Airport's status as an Essential Public Facility (EPF) and the requirements of the state Growth Management Act (GMA) for communities surrounding the airport to plan for EPF siting and expansion and the GMA requirement to plan for compatible uses around the airport. She explained how Paine Field is addressed in various sections of the County's Comprehensive plans dealing with land use, economic development, transportation and capital improvements. She described County's General Policy Plan Facilities chapter addressing the Paine Field Airport:

The Master Plan identifies aviation demand and facility requirements at Paine Field through 2021. Regional Air Service consistent with the 1978/79 MRD for the airport is included in the forecasts and projections and capital facilities to accommodate demand are included in the approved Development Plan (CIP) portion of the Airport Master Plan.

The plan includes the following text from by the Snohomish County Council motion 01-255 adopting the forecasts for the Airport Master Plan update:

The county has had a General Aviation Role policy since 1978/79 with the 'objective to retain and enhance light aircraft general aviation as the dominant aeronautical activity at Paine Field while encouraging the continuation and expansion of aircraft related industries, business and corporate aviation, public service aviation, air taxi and commuter service, and strongly discouraging expansion beyond 1978 levels of supplemental/charter air passenger service, large transport crew training operations, air cargo aviation and military aviation while remaining compliant with the covenants in deeds and grants of the United States Government.

Discussion ensued regarding the Airport Master Plan, County and city comprehensive plans and how they reflected the MRD document. Don Doran asked how the county's comprehensive plan was consistent with the Puget Sound Regional Councils (PSRC) resolution 93-03 which removed supplemental airports from its recommendation?

Ms. Baumel noted that the PSRC planning policies identify Paine Field as a Manufacturing industrial Center (MIC). The MIC designation is a criteria used in prioritizing funding for transportation improvement funding around urban centers.

Dave Waggoner noted that Paine Field did not meet PSRC's definition of major supplemental airport because it lacked a parallel air carrier runway capable of simultaneous instrument operations.

Hugh Townsend asked who decides when expansion will happen and is necessary if GMA requires the County plan siting and expansion of airports, yet the state only provides policy guidelines? Who has the final say?

Peter Camp said that County Council would be the ultimate decision maker regarding encouraged uses at Paine Field. Any demand by an air carrier could force expansion. Council would direct staff to amend documents as necessary.

Lori Kaiser compared airport expansion with critical areas under GMA. Those that disagree with the legislative body's action appeal the alleged lack of compliance to a hearings board. There are multiple paths for challenging an action.

Mark Wolken stated that the Master Plan contains the Regional Low forecast. Should someone want to do something that is within the Regional Low, is it correct that there would still have to be an environmental review. Who would pay for that? Could that effort trigger policy changes?

Michelle Robles said that right now the airline operations included in the Regional low forecast is only a prediction, not a mandate, but she was concerned that once service begins it would. She thought that once the airport is open for scheduled air passenger service, anyone can come.

Ray Stephanson asked if the GMA requires the Master Plan? Ms Baumel responded that the FAA requires an Airport Master Plan if the County wishes to compete for federal grant funding of capital improvement projects at the airport. They are completely different processes. The GMA deals with the land use issues associated with the Airport.

Mr. Stephenson asked if the GMA recognizes the MRD and Ms Baumel noted that the GMA required county comprehensive plan acknowledges the MRD.

Ms. Kaiser stated that if the MRD had not been in place, the Mukilteo Comprehensive Plan would be very different. The MRD guided zoning decisions, and decisions as to where schools would be located. The Harbour Pointe development was carried out with the understanding that the MRD was a valid document.

In an effort to expedite the panel's role, which is to update the MRD, Peter Camp would like to draft a Final Report recognizing the points that the panel agrees on and the issues that there is no agreement. The next meeting will be a work session focusing on this document so that a final report can be presented at the December 14 final meeting. If there is large support to change the document, it will need to go to the County Council.

Tom Gaffney asked who will do the wordsmith? John Shaw's concern is how to make the language intelligible? A glossary would be useful. Mr. Gaffney stated that it seems like we are creating a new document and asked if that would eliminate some of the confusion? He asked if this would actually be a 2006 Amendment, or a final report?

Mr. Camp said he will write a report that will include updating the language of the document to reflect the current situation.

Ms. Kaiser believes that writing a new document would be like lighting a fire.

How much of this is going to change with minor, or major, clarifications? The Panel can't determine if we need a new document until it finds out how it differs.

There will be no consensus on certain issues.

Mr. Wolken is still not convinced that we really need to change it. We have the Master Plan, and other documents. Do we need a new document? Does this provide value? We have public involvement in the County's Airport Master Plan and Comprehensive Plan processes already. Mr. Stephanson asked staff if the Airport Master Plan is consistent with the MRD.

Bill Dolan responded that the 1995 and 2002 updates of the Airport Master Plan both discuss the Mediated Role Determination. He explained how the County Council reaffirmed the role when adopting the forecasts for the master plan. Mr. Dolan encouraged panel members to review the CD he provide in March which included the 1978 Paine Field Community Plan (PFCP) and its appendices. He said that document included analysis of the alternative roles and was the basis for the 1978/9 Mediated Role Determination. He also noted that the forecast section of the PFCP included definitions of many of the terms used in the role.

Ms. Robles stated that the community was built around the Airport because of the MRD. It has historical content. We are not changing the role. If it is not a good by-product, did we clean it up? She would like to think that this year has been productive. Mr. Stephanson declared that our role is to streamline government, and not to replicate it. If it is redundant, and it took us a year to get here, so be it.

Ms. Kaiser stated that the County Comprehensive Plan is a broad policy statement, but that the MRD adds clarity to it and the Panel's job is to make the MRD clearer. The Airport Master Plan is a process to get grants to improve the airport with a singular focus. The MRD gives context at the County level to all the planning policies.

Mr. Wolken said that the MRD was good for its time. Using an analogy of the Magna Carta, he said it was used as a basis, but was not included in the Constitution.

Ms. Kaiser declared that we can't say that the MRD's General Aviation Role hasn't worked, and we can't say it is not relevant because it is hard to read. We should do more than just review it.

Mr. Doran told the Panel that Mr. Kirsch said that many airports that have policy vision statements like the MRD and rarely updated them. The Panel's objective might be able to make the document less scary.

Mr. Camp used a power point presentation to show a MRD Document Outline with 5 major elements. He provided a handout of the draft annotated MRD Document to panel members and told the Panel that their homework is to review determine what changes they would recommend be made. He asked members to try to get input back to him so that he can bring a correlated version to the next meeting. The outline was developed to make the process easier. What has changed, what is the same? What do you agree on, what do you disagree with?

The meeting adjourned at 4:25.

November 30, 2006 Meeting Minutes

**MEDIATED ROLE DETERMINATION PANEL
SNOHOMISH COUNTY ADMINISTRATION BUILDING EAST
FIRST FLOOR MEETING ROOM #1
NOVEMBER 30, 2006
MEETING MINUTES**

MRD PANEL ATTENDEES

A. J. Chase	Deanna Dawson	Don Doran	Tom Gaffney
Tom Hoban	Lori Kaiser	Kevin Laverty	Michelle Robles
John Shaw	Ray Stephanson	Hugh Townsend	Mark Wolken
Stephan Clifton (alt)			

TECHNICAL ADVISERS ATTENDEES

Russ Keyes	John Sibold	Rich White
------------	-------------	------------

SNOHOMISH COUNTY STAFF ATTENDEES

Peter Camp	Dave Waggoner	Bill Dolan
Kerri Bailiff	Nona Anderson	

Don Doran opened the meeting at 2:30.

Public Comments

Greg Hauth, Vice President of Save Our Communities, spoke for several minutes. He compared the Mediated Role Determination (MRD) with the Declaration of Independence which he described as the policy document leading up to the Constitution of the United States of America. He described the MRD as a social contract between the County and the communities surrounding the airport. He stated that the Airport if fully utilized now with Boeing and Goodrich, and that any expansion would create big liabilities. The social contract was signed and sealed when the roads and infrastructure were put in place relying on the MRD document. Calling the MRD document irrelevant is calling the neighboring communities irrelevant.

Kevin Stoltz, Mukilteo City Councilman, noted his approval of the meeting where legal counsel presented its opinion, but said he was bewildered at the last meeting when some panel members called the MRD irrelevant. He said the federal law and the MRD actually work together noting the MRD policy restricting cargo and nighttime operations works now, but would be difficult to regulate without the MRD. The one issue he felt that is very clear is that the document limits scheduled air service operations. He also noted the specific provision in the MRD about accommodating the Paine Field Air Show and said that staff actually discourages actions to renew that annual event.

Peter Camp passed out a lengthy working paper titled "Proposed Updates to MRD Document". He noted the first two sections of the paper had the 1978 Role and 1979 Mediation Panels recommendations printed with the "track changes" showing embedded changes proposed by Russ Keyes, Lori Kaiser, Michelle Robles, and Gary Haakenson. In

addition to the underscores, strike throughs and addition / alternatives gray box areas the paper also included their proposals verbatim. Included in this section were headings, grammatical and tense revisions suggested by Peter Camp to improve the readability of the document. Also included in separate sections were verbatim proposals from Don Doran, Hugh Townsend and John Shaw. The paper had line numbers listed to facilitate the MRD panels review.

The Panel then began a page by page review of the paper focusing on the highlighted proposed revisions and Mr. Camp made notes to reflect the discussion in a “final” edit of document planned for distribution at the MRD Panel final meeting on December 14th. He encouraged panel members to speak up and if they had additional input following the meeting to please submit it to him via email soon so it could be included.

On Page 4 line 10 the suggestion from Mr. Haakenson to define “light aircraft” and “general aviation” sparked a discussion of various interpretations that may have changed over time. John Sibold stated that in going through this document, there couldn’t be found consistent terms for general aviation, air taxi, commuter, light aircraft, and that he could not find a real definition for these terms. Some terms are interchangeable. Bill Dolan noted that a personal use 747 would be classified “general aviation”. Mr. Sibold went on to say that there are aircraft categories defined by weight, or wingspan, there are aircraft operator categories defined by purpose which are subject to different federal operating regulations. Definitions do change from time to time, in part responding to the introduction of new aircraft. General aviation can be all types of aircraft so defining it in this document may require some work. Mr. Camp suggested working with staff and WSDOT to come up with language for a glossary of terms.

The discussion then moved to line 32. Ms. Kaiser suggested that in addition to her proposed additions regarding GMA and local Comp plans there should be a “whereas” regarding ANCA.

Mr. Camp went on to page five noting Mr. Keyes suggestion that the “crosswind runway” section be deleted as the new runway (16L-34R) was built in the mid 1980’s parallel to the main runway. On page six lines 26-33 Ms Robles suggested including an index of related documents attached and definitions of these broad terms.

Ms. Kaiser would like terminology that would put more impact on the wording. While knowing that words including financial impact are not allowed, perhaps adding a preamble would add meat and purpose to the document.

Mr. Camp said he added a “General Aviation” header to page seven and cleaned up the next paragraph.

On page 7 line 48 the suggestion by Mr. Haakenson to add a “non-scheduled” limiter on the terms air taxi and commuter service initiated a discussion on definitions. Mr. Keyes stated that to add or delete language changing the role is not what the panel has been asked to do. He said the panel has been asked to review the existing document and make the document more readable, not more acceptable to one group or the other.

Ms. Kaiser would like the FAA's definitions for commuter aircraft rather than debating the subject. Mr. Keyes stated that the Paine Field Community Plan does define it. Ms Kaiser suggested that the definition has changed over the years. Some documents define it as nine passenger, some 30 to 50 passenger. The panel should know what the official FAA definition is.

Kevin Lavery suggested a rewrite of page eight so that it is more readable regarding use of the facility in accordance with the growth management act.

On Page 8 Mr. Camp suggested that due to the potential for further revisions to the airports noise abatement procedures that the section might simply acknowledge that the airport has a vigorous noise abatement program. The alternative suggested by Ms. Robles in lines 16-26 would have airport noise abatement procedures reviewed in each Master Plan Update to ensure they are consistent with any new federal regulations. Staff was asked if Master Plan updates review the noise abatement procedures.

Mr. Dolan explained that the aviation forecast of the Airport Master Plan is what drives a Federal Air Regulation (FAR) Part 150 Noise Study which has 2 components – Noise Exposure Maps (NEM's) and a Noise Compatibility Plan (NCP). The airports noise abatement procedures are a component of the NCP. A complete FAR Part 150 Noise Study was done in conjunction with the 1995 Airport Master Plan update. In the 2002 Airport Master Plan Update, the NEM portion of the Part 150 was updated. Part 150 studies are not mandated by the FAA but are recommended for airports with jet operations where 65 DNL noise impacts extend into noise sensitive areas. As even 60DNL noise impacts projected based on future levels of Paine Field flight operations do not extend into noise sensitive areas the FAA is reluctant to fund a full Part 150 study. Mr. Dolan explained that in a Part 150 study the various noise abatement and land use alternatives are evaluated based on the number of sensitive uses within the 65DNL area. FAA can help implement noise abatement procedures and can help fund projects identified in an adopted FAR Part 150 NCP that reduce the number of 65DNL impacted residences. He said local communities can adopt levels below 65DNL for purposes of local land use restrictions to improve compatibility with airport operations. He said that guidelines indicate that when 65 DNL contours increase by more than 1.5DNL over noise sensitive uses the Part 150 study should be updated.

Mr. Camp summarized the discussion by saying the noise abatement procedures should be reviewed if there is a substantial change from forecast operations.

On page nine line 3 Ms. Kaiser requested that NEF be converted to DNL.

On page nine line 51, Mr. Camp noted that the addition of “scheduled passenger service” to the discouraged activity portion of the conclusion section suggested by Mr. Haakenson would conflict with the roles encouragement of “commuter service” on Page 7 line 43. Mr. Wolken said that would be a conflict with the document and noted that scheduled air service is the root issue of disagreement in the way the MRD has been presented by various parties in the past. Ms. Kaiser said all the discouraged uses should be listed here. Mr. Gaffney said it should be noise that is discouraged, but Ms. Kaiser stated that it is not just about noise. It is

about environmental impact. Mr. Clifton suggested taking out lines 41-44 on page seven to make it consistent.

Ms. Kaiser asked for clarification about the references in the MRD to the Airport Commission, Paine Field Steering Committee, and Community Council. Mr. Dolan responded that the Airport Commission was an advisory board to the Board of County Commissioners (and after the County Charter was adopted in 1980 the Snohomish County Council and Snohomish County Executive) directing the operation of the Airport. The Airport Commission was disbanded in 1992. The Paine Field Steering Committee was the group of interested parties who worked with airport staff and consultants in developing the 1980 Airport Master Plan (he noted that in addition to the steering committee there was a separate group of technical advisors), and the Paine Field Community Council is the advisory body that was formed following the MRD in 1979 and continues to meet 3 times a year addressing noise and airport planning and development issues. Ms Kaiser asked who appoints the Community Council members. Mr. Dolan responded that the County Council appoints the 10 voting and 10 alternate members on the Community Council and the ex-officio agency representatives are appointed by the respective agencies.

The panel then discussed the recommendations made by John Shaw and Hugh Townsend to have the panels final resolution acknowledge the MRD as a historical statement of Paine Fields role in Snohomish County, but not ratify or revise it and have the County in the future rely on County Airport Master Plan and Comprehensive Planning processes to determine the future land use and operational issues involving Paine Field. Mr. Wolken stated he agreed with that approach. Mr. Clifton said the City of Edmonds could not support such an approach as incremental revisions to the Master Plan and Comp Plan could cumulatively result in significant revision to the policy stated in the MRD.

Mr. Sibold suggested that whatever the MRD document becomes, the preferred role should be included in the Master Plan as that is the document the aviation community looks to when trying to understand the airport. There needs to be consistency between the two. As it is now some representations made about the MRD are not specifically consistent with the Airport Master Plan. Mr. Dolan clarified that the Airport Master Plan includes forecasts of 4 scenarios of scheduled air service with the “National High” scenario being essentially an unconstrained forecast. The County Council adopted the “Regional Low” scenario forecast which includes flights of air carriers serving passengers within 30 minute drive of the airport going to destinations within 500 miles as the scenario most consistent with the MRD’s encourage commuter policy.

Ms Robles stated that whether we keep the MRD or throw it out it does not change County policy. It should be the County Council’s decision whether the MRD is outdated or not. She stated that the Master Plan includes references to the MRD and reminded panel members that we must be very careful that any decisions made by this panel now be consistent and be sure that it will not cause problems for Boeing or Goodrich twenty years down the road. Ms. Robles said the panel should leave the MRD as is, but clean it up so the average person can understand it.

Mr. Stephanson stated that the Airport Master Plan and County Comprehensive Plan came after the MRD and that those are the documents which over time the County Council will

periodically review and adopt revisions to as necessary to reflect the needs of the county. Those documents will determine how the airport should operate and what its policy is. As such the MRD document is redundant.

Ms. Kaiser stated that the Master Plan was developed for a different purpose than the MRD. The Master Plan is developed to acquire funds from the FAA and the MRD is the policy document. It should not be discarded. It is used frequently (although not updated frequently) and when the next Master Plan is developed it needs to be in place to add clarity. Airports around the country use this type document to get more understanding between the surrounding communities. It is the “Guiding Light”.

Referencing the press release at the time the MRD panel was formed Mr. Woken noted that the desire in is to add clarity to County’s policy on Paine Field as there have been representations that the MRD says things that can not be found in the actual documents.

He stated that it seems redundant to have the County Council adopt document A, and then two other documents on the same subject. For the sake of clarity we need to “distill this into as few documents as possible.”

Ms. Kaiser said she looks forward to seeing the new document to be presented on the 14th with revisions and a glossary.

Mr. Doran opened the meeting for Public Comments.

Mr. Hauth stated that ANCA says the airport cannot discriminate once air service has started and that service can grow without bounds. He also said that DNL is only a 24 hour average it is a “money line” determining where FAA funding participation in noise mitigation can occur. He encouraged the panel to accept Mr. Doran’s proposal to revise the MRD.

Greg Tisdale, described himself as an Everett resident and Snohomish County taxpayer who believes it is unfair to County taxpayers to not allow them the benefits of using commercial air service at Paine Field. He said the facility is not now at its best utilization. He told the panel that the MRD is not a “sacred document”. Policies can and do change to reflect the needs of the general public. He said air service at Paine Field could help solve traffic problems and associated air pollution from so many people traveling to Sea Tac.

Barbara Ward, a member of SOC said she is appalled with the idea of the notion that the panel called upon to review the document might decide to throw it out. She said the MRD is a promise to the people that we have built our community on and the County should honor it. She said a deal is a deal.

Jim Sheldon then addressed the panel. He noted that he was surprised that the airport staff had not provided the panel the terms negotiated between the Airport Commission and San Juan airlines in 1987 when San Juan operated their 15 passenger Beechcraft C99 turboprop aircraft between Paine Field and Portland. That lease restricted the aircraft size to 30 seats. He said that not providing this information to the panel was deceptive and the use of a 50 seat definition for commuter is bogus in light of other definitions in federal air regulations.

The meeting concluded at 4: 30 p.m.

December 14, 2006 Meeting Minutes

**MEDIATED ROLE DETERMINATION PANEL
SNOHOMISH COUNTY ADMINISTRATION BUILDING EAST
FIRST FLOOR MEETING ROOM #1
DECEMBER 14, 2006
MEETING MINUTES**

MRD PANEL ATTENDEES

A. J. Chase	Gary Haakenson	Don Doran	Tom Gaffney
Tom Hoban	Lori Kaiser	Kevin Laverty	Michelle Robles
John Shaw	Ray Stephanson	Hugh Townsend	Mark Wolken

TECHNICAL ADVISERS ATTENDEES

Russ Keyes	John Sibold	Rich White
------------	-------------	------------

SNOHOMISH COUNTY STAFF ATTENDEES

Peter Camp	Dave Waggoner	Bill Dolan
Kerri Bailiff	Nona Anderson	Jim Maynard

Don Doran opened the meeting at 2:30.

Public Comments

Paul Roberts, City of Everett Councilman, spoke on the issue of encroachment. Not of encroachment of the Airport on the neighboring communities, but rather, he spoke on the encroachment of the land uses on air operations. In a letter to the Panel, Mr. Roberts states “There are a number of adopted plans, policies, agreements and laws affirming the need to protect Paine Field air operations.”

Mr. Roberts stated Paine Field is the largest aerospace manufacturing facility in the world and that the loss of Boeing would have a much greater impact on the area than having commercial service would. As far as noise being the issue, noise comes from three sources: general aviation, industrial aviation (Boeing and Goodrich) and commercial aviation.

Mr. Robert’s summary was that since there is no market for commercial service right now, the agreement should be set aside. State laws have been put in place to protect air/land uses (i.e. GMA, ANCA).

Greg Hauth, Vice President of Save Our Communities, spoke for several minutes explaining that the local population “encroachment” would not have occurred had the MRD not been in place thirty years ago. He asked if the City of Everett was prepared to buy out all the landowners affected by expansion of Paine Field.

Save Our Communities (SOC) supports aerospace industry such as Boeing. The issue is not about Boeing activities, but rather about environmental impact, pollution, school and health

issues. SOC would like the Doran proposal presented in the final document as a fair offset to the Shaw proposal.

Mayor Stephanson responded to Mr. Hauth's remarks about the City buying out homeowners saying that that

Jim Sheldon reiterates his belief that there is a lack of accuracy in the documents presented to the Panel. He states The 1975 Civil Aeronautics Board is actually for operating an airline, that the Department of Transportation (DOT) regulates the economic portion of the industry and that the FAA regulates the safety of aerospace. The Paine Field Community Plan depicts a 30 – 50 passenger aircraft, but that does not mean that the person that wrote the plan knew what the regulations were, and could determine what is accurate. In 1993 Mr. Sheldon gave a detailed presentation to the Master Plan Advisory Committee addressing in detail this matter. If these are the definitions the panel is using, they are building on a clay foundation. He went on to say that in an October 10, 1978 document changes were made to the Air Taxi Operational Rules.

Peter Camp went over the agenda. Does the terminology mean some different today than it did thirty years ago? What were the intentions of the people that drafted the MRD?

Mark Wolken would like to change the order of the agenda and was prepared to make a motion to that effect. Peter responded that the Panel was not a legislative body, that a motion was not necessary. The Panel's purpose was to determine what the pros and cons of the document are. Everyone is on the committee was chosen because of their varying opinions or bias.

Mayor Stephanson would like the Panel members to determine the process and that there should be some dialogue on the issues. Mr. Camp asked the Panel what they would like to do.

Michelle Robles stated that even If the Panel were to throw out the MRD, it is still embedded into the Master Plan. It is referred to 700 times in the Master Plan. The Panel needs to present both sides of the issue and clear up the language.

Lori Kaiser believes that the Executive has asked for her opinion and wants her input. The job is to update the document and Ms. Kaiser intends to finish that job.

Mayor Stephanson asked for clarification on voting and on the duties of the Panel. Mr. Camp explained that the Panel had no legislative power so vote has been taken and the duty of the Panel was to discuss the pros and cons of the MRD. His Report will reflect all of the opinions.

Gary Haakenson determined that the Shaw, Wolken, Townsend (SWT) proposal is a clear policy change. Doing away with the MRD is not that simple for elected officials.

The MRD is a building block document on which all the other documents are based. Surrounding communities have built their cities based on the MRD. While some believe the document to be only of historic value, the County Council has reaffirmed the MRD on a

regular basis. It is a matter of public trust. Mayor Haakenson wishes to simply update the document.

Hugh Townsend asked “Can we get out a document that we are all going to be proud of?” in the time remaining. The MRD document doesn’t say anything and is a lousy document. What now?

Mark Wolken went through the local newspapers to see what was said about the MRD thirty years ago. The news of that time

The MRD Panel was made up of only three local residents, staff and the Commission were the dominant members. The actions of the panel were contradictory. While discouraging military operations, they renewed the 20 year lease of the Army Reserve Helicopter unit. The schools in the area supported the “no action” alternative. The promise to update this document has not been accomplished. Mr. Wolken sat on the 1988 Paine Field Taskforce Committee which also accomplished nothing. We cannot solve anything, we cannot solve the commercial issue, and we need to move forward.

Tom Gaffney suggested that since there are two different camps perhaps there should be two documents.

Mr. Wolken wants the two proposals included in the final document.

Tom Hoban is struggling with the document. As a business type he is afraid to be associated with the document. The attorney scared the hell out of him. He does not like the MRD, it is a confusing document. Mr. Hoban believes there are other vehicles to deal with the restrictions.

Mayor Stephanson asked if all comments are included in the draft document. Mr. Camp explained that he tried to get all points of view into it. His plan is to write a fair and balanced document with an appendix including the two proposals. It will contain as much information as possible and will not mislead the reader.

The Mayor suggested that there seems to be two tasks at hand. One is to comment on the SWT proposal and one is to comment on the MRD.

Mayor Haakenson has put his opinion in writing.

John Shaw believes the document is so flawed then it would be a mistake to amend it or clean it up and send it forward.

The Panel is not a legislative body, that role goes to the County Council. He would like a resolution telling the Council that this is your job. Tell them we met and we all agree that this document has a lot of problems.

Mayor Stephanson agrees that the Council is the place to make changes. The Panel’s task is not to define the role of the Airport resolution.

Michelle Robles referred to the first line of the Master Plan. The Airport is referred to a General Aviation Airport. The Panel's job is not to redo the MRD or change the role of the airport.

Mayor Stephanson stated that Many citizens believe the MRD document is promise that there will never be commercial service. That is inaccurate.

Ms. Robles believes that the biggest role the airport plays is for Boeing. In 1994 The County Council promised to protect adverse airport impact.

Mayor Stephanson thinks there are two points of view; that the MRD should no longer exist except for historical record and all policy should reside in the AMP and it should continue to exist because it has made some kind of social contract to the citizens.

To accomplish the task at hand, we will take a non-voting vote. Each Panel member will voice his or her summary to be documented. There can be no majority recommendation.

Each panel member will use 3-5 minutes to summarize their vote.

Ms. Kaiser definitely wants a glossary of terms. She also wants all differing opinions included and would like it to reflect how the Panel members were chosen.

Mr. Camp will include in the glossary how the terms were used thirty years ago and how they are used now.

The comment period of the Panel commenced with Mayor Haakenson. He would like the MRD revised and He has submitted his views in writing to the Panel.

Ms. Kaiser stated that the Panel contained many different opinions. She believes the role of the Panel is to clarify the MRD, not rewrite, and not to send on with a resolution to the County Council. The MRD is a policy document used by many airports. The council reaffirmed it and it was used as a building block for many other growth management documents. The AMP has a different objective; it is used by the airport to obtain money from the FAA. That is a very different objective than the MRD, which has been fully implemented in all levels of government. It is difficult to interpret, but the role of General Aviation is clear.

Ms. Robles is not happy with all the words in the MRD, but it was a relevant document when it was written in 1978 and most of the issues still exist. Nine of the MRD issues were accomplished. While the MRD is not a perfect document, it is a good process. If it isn't broke, don't fix it.

Kevin Lavery submitted a copy of a letter with his thoughts.

Since the inception of the MRD people have relied on it and have gone forward and used it. Mukilteo School District does not believe the document should be changed

A.J. Chase supports the SWT proposal. She believes the MRD accomplished its goals in its time.

Tom Gaffney cannot support the MRD as it is. It should be revised or rewritten. People believe it says something that it does not. Mr. Gaffney strongly supports the SWT proposal. It is time to move on.

Mark Wolken spoke as a contributor to the SWT proposal. Having 25 years experience in public policy making, he believes he can determine that this is a bad policy document. He added that the document does not say what people believe it says. The policies should be decided in the GMA and AMP. The future should not be decided upon by a document that is out of date.

Tom Hoban believes the lease agreement in this document is totally confusing. We are trying to agree on what is going on. In the real estate business, when we can't agree, we throw out the document and start over. That is what should be done now, start over.

The attorney's opinion changed Mr. Hoban's mind; this is about the document and not about the policies behind them. Mr. Hoban strongly supports the SWT proposal

John Shaw knew at the start that the Panel would ultimately come to the day when they would have to agree to disagree. He opposes wordsmithing the MRD. It would be a disservice to the community to keep that document out there. We all know that at some point in the future there will be a proposal for passenger service, and it will have to be dealt with at that time. No one can hold up this document and say "It is already decided".

It will have to go through all the legal processes.

Hugh Townsend has strong feelings about the MRD. As a co-writer of the SWT proposal he believes the document should be thrown out. He has tried to rewrite it and couldn't.

When you cross out the nine things that have been accomplished, you end up with statements that applied 25 years ago and that are not consistent with the GMA & ANCA. Mr. Townsend came on the Panel wanting to hear everyone's opinions. This document doesn't help us; it doesn't have the teeth that people think it has.

Don Doran compared the MRD to a Camel, which is actually a horse designed by committee. He believes that most legislative documents aren't very pretty because they need to accommodate most points of view to get approved. The MRD has been a cornerstone (or building block) of how the County has designed the property around the airport and it is woven into every other document right up to the state level. Some people outside the legislative arena might want to just pull out the weed, but you can't pull it out because it has been woven through so many other statewide documents. It may be a confusing document, but we have a court system because every document is going to be debated. No document is clear enough to avoid scrutiny. In the policy making world change is by increment. Mr. Doran finds the lawyer's logic groundless. Where is the business plan to justify some the premises? For those that are seduced by the statement "there will only be a couple flights a day" (those that will drink the Kool-Aid without wanting to know what is in it) we know that non-discrimination means non-discrimination. The reality is, it can grow unabated 24 hours a day, seven days a week.

When the market prevails there will be competition for Boeing and Goodrich just for the use of the runway. That is the worst case scenario. Mr. Doran believes that the MRD should be handed to the County Council.

Mayor Stephanson believes that the MRD is a historical document. Before the Panel was formed he believed that passenger service was prohibited, but now he finds that the MRD does not say that. When and if the need arises, the physical configuration of the airport will dictate how big it will become. And that does not need to be determined today. The Mayor suggested that The County Council should use the AMP to reflect policy making. He thinks that the two logical answers to the Executive are to update the MRD or replace it.

Peter Camp thanked the Panel for their contributions and handed out Certificates of Appreciation.

The meeting was adjourned at 4:20.

DORAN PROPOSAL⁴⁴

Co-Chair Don Doran (former Mayor of Mukilteo), urged that the MRD Documents should be rewritten. The panel did not vote on Mr. Doran's proposal because the mission of the MRD Panel was to update the MRD Documents, not re-writing the MRD Documents. Mr. Doran suggested that if the MRD Documents were to be re-written, they should look like this:

WHEREAS, the Snohomish County Planning Commission recommended to Snohomish County Board of Commissioners that the Commissioners adopt a Role for Paine Field to be entitled "General Aviation" at which citizen input and testimony were received; and

WHEREAS, the Snohomish County Planning Commission filed Findings and Recommendations on the 11th day of April, 1978 with the Snohomish County Board of Commissioners in the matter of the selection of an airport Role for Paine Field; and

WHEREAS, the Board of Commissioners considered the Findings of Fact and the Recommendation of the Planning Commission, the Airport Commission, and received written materials concerning the Role for Paine Field at its meeting on April 17, 1978; and

WHEREAS, after having received and considered all documents and testimony submitted to this Board by the Planning Commission, Airport Commission, local government officials, concerned citizens, and others, the Board of Commissioners adopted on January 23, 1979 recommendations of the Planning Commission with two modifications and two conditions added by the Board of Commissioners and called for engaging "the services of a professional mediator to resolve any differences that may arise between the operation of Paine Field and the citizens"; and

WHEREAS, the Board of Commissioners appointed the Office of Environmental Mediation at the University of Washington on July 10, 1978 to bring together a mediation panel to hold talks; and

WHEREAS, the mediation panel held such talks to discuss issues and to negotiate specific agreements among the panel members and recommended modifications to the 1978 Mediated Role Determination ("MRD") as adopted by the Board of Commissioners; and

WHEREAS, following a community meeting attended by several hundreds of citizens concerned about scheduled air passenger service and air cargo service starting at Paine Field, County Executive Aaron Reardon convened a Mediated Role Determination Panel in 2005 to review and update this MRD Document; and

WHEREAS, in the twenty eight years since Snohomish County adopted this Mediated Role Determination for Paine Field, property owners, families, municipalities, public schools, churches, businesses and others have, in good faith, relied on the Mediated Role Determination and invested billions of dollars into their homes, businesses, schools, and other public facilities in the vicinity of Paine Field.

⁴⁴ Source of draft is Save Our Communities, 2006.

WHEREAS, in 1978, as a result of the Mediated Role Determination process, Snohomish County selected a General Aviation Role for Paine Field (formally known as “Snohomish County Airport-Paine Field”) with no development for scheduled commercial aviation.

WHEREAS, since adoption of this MRD resolution in 1978/1979, the rate of job growth in Snohomish County has exceeded that of all other counties in Washington State;

WHEREAS, the MRD Panel believes the MRD Document should be combined into a single document and updated to clarify ambiguities and eliminate language no longer necessary or appropriate; and

WHEREAS, the MRD Panel desires to update the MRD Document by deleting superfluous and outdated provisions and by clarifying the MRD Document, but not by changing the intent or substance of the MRD Document;

NOW, THEREFORE, BE IT RESOLVED that the MRD Panel restates Mediated Role Determination as follows:

FINDINGS

1. There is widespread and well founded public concern throughout Snohomish County, about possible scheduled air passenger and air cargo service at Paine Field.
2. In 1990 Congress adopted the Airport Noise and Capacity Act (“ANCA”) 49 U.S.C. app. 2151 et seq. First, ANCA was intended to quiet airports by removing Stage 2 aircraft from the fleet. Second ANCA recognized that a legal structure was required to rationalize and systematize the process for imposing both requirements (or burdens) on the aviation industry and the communities it serves by imposing federal regulations. Third, the Act recognized the imperative for substantial new system capacity – and it created the means to fund that objective through Passenger Facility Charges or PFCs. The Act addresses noise emissions only; not pollution emissions, effects on health, quality of life, or local land values. Some issues pertaining to the Act follow:
 - a. An airport operator imposing a noise or access restriction that has not complied with ANCA may not receive revenues under the Airport and Airway Improvement Act of 1982 (“AAIA”), as amended, 49 U.S.C. App. Section 2208(b) (1) (E). Subpart F of 14 C.F.R. Part 161 describes the procedures to terminate eligibility for airport grant funds and authority to impose or collect passenger facility charges.
 - b. These rules limit restrictions that an existing commercial airport may impose on air carriers subject to the penalty that such airport facilities may lose future FAA grant awards if the airport operator is found to be in non-compliance.
 - c. These rules recognize that rules in effect by a local community to limit airport activity and noise prior to passage of the Act may remain valid.
 - d. These rules do not impose any requirements on airports to change their role

from a general aviation facility to a commercial air passenger or air cargo facility. As the proprietor of Paine Field, Snohomish County has the ability to impose limits on the use of Paine Field that might not be available to a local jurisdiction exercising zoning controls or other general police powers. The United States Supreme Court has explained that the federal government is “in no position” to require an airport proprietor to accept service by larger or noisier aircraft. “The issue is the service desired by the airport owner and the steps it is willing to take to obtain the service.” Burbank v. Lockheed Air Terminal, Inc., 411 U.S. 624, 649 (1973). This finding was reaffirmed by the FAA in to a local community group in December 2005. Consistent with the Mediated Role Determination and the other regional planning decisions referenced above, Snohomish County as proprietor of Paine Field does not want Paine Field to be expanded for non-General Aviation purposes. Such expansion would necessitate Snohomish County spending millions of dollars in direct and indirect short term costs and subsidies, acquiring noise easements and, presumably, becoming embroiled in litigation regarding noise, health, environmental and other impacts. Such expansion would eventually tax the road system around the airport and necessitate surface transportation improvements. Such expansion would necessitate development of additional facilities for terminals, baggage handling, automobile rentals, security measure implementation and other associated ground side facilities and services. Snohomish County is not able to and does not desire to fund these necessary improvements. Snohomish County does not want or desire to cause a significant decrease in home ownership tax base or cause an increase in school, social services and other costs.

3. The City of Mukilteo, City of Edmonds, City of Lynnwood, City of Mountlake Terrace, and the Town of Woodway have all adopted 2005 resolutions reaffirming opposition to commercial, scheduled air service at Paine Field.
4. In 1990 the State of Washington created the Growth Management Act because the Washington State Legislature found that uncoordinated and unplanned growth posed a threat to the environment, sustainable economic development, and the quality of life in Washington. Known as the GMA, the Act (Chapter 36.70A RCW) has been described as creating a "cascading hierarchy" of substantive and procedural planning requirements.
 - a. Following passage of the GMA, zoning codes and other development regulations must be consistent with a jurisdiction's Comprehensive Plan. A provision of the GMA states that a county shall perform its activities and make capital budget decisions in conformity with its comprehensive plan. RCW 36.70A.120. Since Snohomish County's Comprehensive Plan specifies that Paine Field is to be used only for General Aviation and not expanded into scheduled commercial services, Snohomish County cannot adopt a Master Plan for Paine Field or otherwise take steps that would be inconsistent with that specified role.
 - b. Snohomish County's current Comprehensive Plan states: "In 1973 the County initiated a planning study of the airport that generated significant

public debate and eventually culminated in County adoption in 1978 of a General Aviation Role for Paine Field.” The current Snohomish County Comprehensive Plan discusses other plans that were adopted in 1981 and 1983 and then states that “[t]hese documents charted a future for both the airport and the surrounding community that was predicated on a defined Role for the airport that features continuation of Boeing’s operations and expanding operations for General Aviation.”

5. Since its approval in 1978 through 2005, the MRD has been reaffirmed by the Snohomish County Council in 1986, 1989, 1993 and 2002.
6. The Puget Sound Regional Council (“PSRC”) was created on Oct. 1, 1991, following the dissolution of its forerunner, the Puget Sound Council of Governments. Beyond a change in name, the new agency, PSRC, has specific mandates under federal transportation and air quality laws, and under the state Growth Management Act, that the previous agency did not. The primary purpose of the Puget Sound Regional Council is to serve as a regional forum for local governments, working with state transportation interests, ports and local transit agencies, to resolve growth and transportation issues. A principal function is to maintain and periodically update its Comprehensive Plan, “VISION 2020,” including the region's transportation plan (called Destination 2030), as the growth management, economic and transportation strategy for the region, and, with VISION 2020 as a guide, to provide federal funding for transportation projects, and support to member jurisdictions, to help achieve and sustain the region's outstanding quality of life.
 - a. The Puget Sound Regional Council concluded “that there are no feasible sites for a major supplemental airport within the four-county region.” Resolution No. EB-94-01. PSRC Resolution A-93-03 passed in 1993, addressed the use of commercial air service at Paine Field by stating that the regional decision to build a third runway at Sea Tac was in part “to eliminate small supplemental airports, including Paine Field, as a preferred alternative.”
 - b. Based on the policy guidance of the PSRC’s Comprehensive Planning document, “VISION 2020,” the countywide planning policies of King, Pierce, and Snohomish counties include language that supports manufacturing and industrial centers, and instructs local governments who host these centers to identify and map them, preserve them through planning and zoning, establish appropriate development regulations, and support their development needs by investing in necessary infrastructure. Paine Field is one of the primary manufacturing centers designated, and its role as such under these planning documents and within this MRD should be preserved, and should not conflict with proposed commercial aviation development for air cargo or air passenger service operations.
 - c. As part of a state-wide airport survey started in 2005, the PSRC determined that any new fully capable supplemental airport would require twin runways of 10,000 feet each, along with associated support facilities and glide paths. The PSRC has determined that Paine Field, with its main runway of 9010 feet, is not capable of meeting these requirements.

- d. The PSRC determined that expanded air cargo operations at Paine Field would be inappropriate given other alternative options available.

7. The Environmental Analysis Summary, supplemental technical evidence, and statements from the public indicate that any expansion of Paine Field, if not strictly controlled, could impose substantially increased adverse environmental impacts on a large number of existing and future Snohomish County, Island County and northern King County area residents.

8. There is a demand for improved and expanded light aircraft General Aviation facilities in the Seattle-Tacoma-Everett region.

9. There is no clear justification for providing additional Large Transport Air Carrier or air cargo facilities at Paine Field, or at any airport in the region other than SEA-TAC, during the foreseeable future.

10. Snohomish County has been designated by elected officials of Snohomish County and the affected cities as a major urban growth center. Major public and private investment, including development of an extensive system of public utilities, and educational Facilities, has already occurred to implement this growth policy. Urbanization of the County is continuing at a rapid pace.

11. Failure to reduce the adverse impacts of airport operations on the community and control negative residential growth impact on airport activities will result in unnecessary social, environmental and economic hardship for the communities, while jeopardizing legally and financially the County's substantial investment in airport facilities at Paine Field.

12. Future use and development of Paine Field must recognize and protect the rights of The Boeing Company to use these facilities as provided for in their long-term contract with the County.

13. The needs and interests of the municipalities surrounding Paine Field, including Everett, Mukilteo, Lynnwood Edmonds, Mountlake Terrace, Woodway, and others must be given full consideration by the County in determining the future use of this facility.

14. While a wide assortment of noise abatement measures are available which can and should be used at Paine Field to substantially reduce the adverse impact of present and future aircraft noise on the surrounding community, recent studies have shown that impacts from noise debilitate students' learning, devalue property, diminish health, and harm the environment.

15. Testimony by pilots based at Paine Field and affected residents of the community has raised serious doubt about the accuracy of the aircraft noise contour forecasts generated for this study and hence supports enactment of a major continuous noise monitoring program at Paine Field.

16. Citizen confidence in the commitment of the Airport staff, Airport Commission, and elected County officials to aggressively pursue programs to make the airport and surrounding community compatible must be created to avoid long term major

confrontations that will poorly serve the airport, County and community.

17. The City of Mukilteo was involved in the Mediated Role Determination and is one of the municipalities that have made land use and capital facilities decisions for the last quarter century based on that consensus driven decision. The City of Mukilteo has encouraged residential development at urban densities in close proximity to Paine Field in reliance on the regional decisions to limit aviation use of Paine Field for General Aviation purposes. Currently, the areas around Paine Field are home to large areas of residential development, mainly at high urban densities. Many schools, churches, and businesses are in the immediate area, too. Property owners, families, municipalities, public schools and others have, in good faith, relied on the Mediated Role Determination and invested billions of dollars into their homes, businesses, schools, and other public facilities in the vicinity of Paine Field.

CONCLUSIONS

1. As the proprietor of Paine Field, Snohomish County has the right to limit the use of Paine Field for any of the aforementioned findings alone. Discouraging scheduled air passenger service is necessary to avoid these costs and the associated environmental, health, economic, security and ground transportation impacts to neighborhoods, communities, schools, children, residents and military that would directly and indirectly degrade the quality of life, tax base and ability to attract desirable and compatible businesses.
2. In light of these findings and our knowledge gained from many hours of testimony and review of evidence, we recommend that a redefined aviation Role for Paine Field be selected which would achieve some of the primary objectives of the General Aviation Role, while also protecting the interests of Snohomish County and the airport. We entitle this new role the “General Aviation Role,” described further below.
3. The development of Paine Field will be predicated on the recognition that it resides within established communities and will be sensitive to the quality of life for which surrounding residents, business, and government strive. The communities will work together with the County to guide the operation of the facility to preserve and protect the quality of life.
4. The “General Aviation Role” is defined as efforts to retain and, enhance light aircraft General Aviation as the dominant aeronautical activity at Paine Field. This approach would impose strict controls on any aviation activity to fully mitigate any adverse impacts including, but not limited to, social, health, educational, environmental, and economic impacts.
5. Expansion or improvements or other airport facilities primarily for light aircraft General Aviation use would also be permitted under the General Aviation Role, subject to adequate mitigation of adverse environmental impacts.
6. Other aviation activities which would be encouraged to continue operation and expansion at Paine Field include “land-side” uses such as aircraft related manufacturing industries.
7. Existing aviation activities at Paine Field for “air side” uses which would be strongly discouraged from expanding because of their inconsistency with the airport’s General

Aviation Role as well as their unavoidable adverse impact on the surrounding community include scheduled air passenger service, charter air passenger service, Large Transport Air Carrier crew training operations, air cargo aviation and military aviation.

8. Based on the foregoing findings, Snohomish County will take no action that would facilitate, directly or indirectly, use of Paine Field for scheduled air passenger service. Snohomish county will:

- a) Take all actions necessary to ensure all direct and indirect costs associated with scheduled air service or air cargo will not be borne in any part by the County but will be borne by such air carrier(s) conducting such operations except for such direct costs necessary for the maintenance of existing aviation facilities and services. “Direct costs” include, but are not limited to, planning, design, market demand, or environmental studies; all costs necessary for terminal facilities, baggage, security, parking and other related operations at Paine Field. “Indirect costs” include, but are not limited to, all costs incurred by the community as a result of commercial air service at Paine Field such as property devaluation, noise mitigation, impacts on health, education, security, and infrastructure, and shall include any and all such costs to perform studies associated with the determination of such indirect costs.
- b) Neither apply for nor accept any funds from the Federal Aviation Administration or any other agency that are conditioned on Snohomish County, expressly or implicitly, making Paine Field available for scheduled air passenger service or air cargo service.
- c) Not seek or obtain a certificate from the FAA that would allow use of Paine Field for scheduled air passenger service.
- d) Discourage expansion of air cargo service at Paine Field on both a temporary and a permanent basis.
- e) Take no action that would cause, directly or indirectly, interference with use of Paine Field by general aviation or for Boeing-related activities.
- f) Adopt and maintain zoning for the Paine Field property which precludes use of the property for scheduled air passenger service and which prohibits any expansion of air cargo service and large transport crew training.
- g) Take any and all actions necessary to ensure any statewide airport siting efforts include all costs and impacts when such efforts involve potential sites in Snohomish County including Paine Field.
- h) Oppose any effort to amend the Multi-County Planning Policies or Regional Transportation Plan/Metropolitan Transportation Plan to include in those planning documents policies or other language that would support development of scheduled air passenger services at Paine Field. Snohomish County will continue to support the use of Sea-Tac International Airport as the exclusive airport in this region for providing scheduled air passenger service.

9. A vigorous, noise abatement program embodying the element, described in the Planning Department's position statement should be included as an integral part of the General Aviation Role. It is our firm belief that all affected sectors of the airport community should be directly involved in developing and to the maximum extent possible, implementing the detailed element of a noise abatement program. The program should include at least the following:

- a) Staffing of an Airport Noise Mitigation Program
 - i) The County should engage the services of a professional mediator when needed to work directly with the community to resolve any differences that may arise between the operation of Paine Field and the citizenry.
 - ii) The County should form a permanent Paine Field Advisory Council composed of local residents, local municipal representatives, and airport users to provide advice to the County on important issues related to Paine Field.

10. Control of Military Aircraft Activities at Paine Field

- a) Military aircraft should abide by Paine Field Noise Abatement Procedures developed by airport users and adopted by the Snohomish County Airport Commission on September 13, 1978.

11. In conclusion we present our findings, which expressly support the selection of the General Aviation Role:

- a) The General Aviation Role will permit reasonable airport expansion to continue at Paine Field.
- b) The General Aviation Role will impose a minimum amount of adverse environmental impact on the Paine Field area community.
- c) The General Aviation Role will cause the least disruption to existing land use patterns around Paine Field.
- d) The General Aviation Role will provide the best opportunity to both preserve and expand the existing airport industrial park.
- e) The General Aviation Role will provide the greatest economic benefits to the County with the least economic and environmental costs.
- f) The General Aviation Role will best serve the future needs of light aircraft General Aviation, the principal aeronautical activity at Paine Field.
- g) The General Aviation Role will ensure that light aircraft General Aviation will remain the dominant aeronautical activity at Paine Field for the foreseeable future.
- h) The General Aviation Role will limit the expansion of aviation activities at Paine Field which are least compatible with its dominant General Aviation Role and which would impose the most adverse environmental impacts on the surrounding

communities.

- (1) The General Aviation Role will provide the County with the best opportunity to successfully implement an aggressive, long-term noise abatement program at Paine Field.
- (2) The General Aviation Role will protect the rights of The Boeing Company to use the airport facilities at Paine Field as outlined in their long term contract with Snohomish County, and it will protect the other industrial aeronautical uses (“land side uses”) domiciled at the airport.

12. Community sponsored events will continue to be permitted at the Snohomish County Airport at Paine Field.

13. With respect to any further study relative to the Paine Field Community Plan, the body studying said Plan should be constituted in such manner as to involve local citizens, airport users, qualified technical staff and advisory committee and be patterned along the lines of the Citizens Advisory Committee which drafted the Snohomish County Shoreline Master Program.

14. This Paine Field Community Plan shall be subject to periodic review, so once noise levels and patterns are set at an acceptable level, Paine Field may take advantage of technological and operational improvements.

15. Public Awareness of Airport Activities and formation of a Paine Field Community Council

- a) Recognizing that Public awareness of airport activities will mutually benefit the airport management and the surrounding residential community, it is recommended that mechanisms be set up to keep the general public aware of airport activities.
- b) A Paine Field Community Council should be appointed by the Snohomish County Council with the following composition: one (1) representative from each of the following City Councils: Everett, Edmonds, Lynnwood, Mountlake Terrace, Mukilteo and the Town of Woodway; four (4) citizens from residential areas impacted by the airport, two (2) pilots affiliated with Paine Field in some capacity, two (2) fixed base operators at Paine Field, and two (2) representatives from off airport business community.
- c) The Community Council should meet at least twice a year in regular session. The Council may schedule as many meetings as it considers necessary.
- d) The Airport Director shall prepare and present to the Community Council a report of airport activities that shall include, but not necessarily be limited to the following elements:
 - i) Current operations.
 - (1) Short term and long term planning.

- (2) Proposed development that may affect the character of light General Aviation and evaluation of its consistency with the intent and purposes of this document.
- (3) Evaluation of current dialogue between the aviation community and residential community.
- e) The Community Council should review, assess and make recommendations to the County Council and/or affected political entities with regard to the airport, especially items impacting the spirit and letter of this Role Determination agreement.
- f) The Community Council should promote mutual cooperation and understanding between the airport and residential communities.
- g) Secretarial and other office expenses should be funded by Snohomish County, if legally possible.

If any section of this resolution is found to be illegal, the exclusion of that section will not affect any other portions of this resolution.

NOW THEREFORE, BE IT RESOLVED, that pursuant to the Findings of fact as set out above, the Snohomish County Council hereby ADOPTS the “GENERAL AVIATION ROLE” for Paine Field (Snohomish County) Airport.

Copies to: Snohomish County Executive

City of Everett

City of Edmonds

City of Lynnwood

City of Mountlake Terrace

City of Mukilteo

City of Mill Creek

Town of Woodway

Mukilteo School District

Edmonds School District

Everett School District

Save Our Communities

Glossary

“General Aviation” means Light Aircraft (piston prop under 12,500 lbs gross wt.)

Large Transport Air Carrier” means a company engaged in the transport of cargo or people using aircraft greater than 12,500 lbs gross wt.

“MRD Panel” means the citizens’ panel convened in 2005 by County Executive Aaron Reardon to update the MRD Document.

“MRD Document” means the Board of Commissioners’ adoption of the Planning Commission’s recommendation in 1978 (with modifications) and the amendment by the Mediation Panel.

“Mediation Panel” means the Environmental Mediation Panel convened by the University of Washington Office of Environmental Mediation in 1978.

SHAW/WOLKEN/TOWNSEND PROPOSAL

Panel members John E. Shaw, Mark Wolken, and Hugh Townsend suggested the MRD Panel adopt the following report. The MRD Panel did not vote on the question of adopting the report because the report did not update the MRD Documents, but re-wrote them.⁴⁵

I. FINDINGS

A. BACKGROUND

The Mediated Role Determination (MRD) was adopted by a resolution of the Board of County Commissioners of Snohomish County in April 1978 and revised in January 1979. The original MRD listed 12 findings that led to the adoption of a “General Aviation” role for Paine Field.

The MRD resolution stated, “The principal aviation objectives of the General Aviation role would be to retain and enhance light aircraft general aviation as the dominant aeronautical activity at Paine Field.” The commissioners also encouraged the operation and expansion of aircraft related industries, business and corporate aviation, public service aviation, and air taxi and commuter service. The commissioners strongly discouraged supplemental/charter air passenger service, large transport crew training operations, air cargo aviation and military aviation.

The resolution noted that “A vigorous, noise abatement program...should be included as an integral part of this redefined General Aviation role.” That program was to be developed and implemented by affected sectors of the airport community and should include: an “Airport Noise Mitigation Program” to be developed by a permanent Paine Field Advisory Council; “Aircraft Noise Source Controls” based on FAR Parts 35 and 36; a “County Assistance Program” for homeowners; and, “Paine Field Noise Abatement Procedures” for both jet turbo prop/heavy propeller aircraft and Light single/twin engine aircraft.

In the amendment to the MRD, the commissioners accepted the recommendations of the Paine Field Mediation Panel. Accordingly, the commissioners recognized that Paine Field, “is an established public facility and an essential element in the State of Washington’s transportation system and that future options should be preserved to enable Paine Field to be modern, efficient, and safe.” The development of Paine Field was to be predicated on the recognition that it resides in an established community and will be sensitive to the quality of life for which surrounding residents strive. The residents in turn were to understand that they live in the influence area of an established airport.

Specifically, the mediation panel recommended the creation of a Paine Field Steering Committee to study the impacts of the airport on noise, air pollution, congestion and air safety. The findings of the Steering Committee were to be completed in anticipation of preparing a Paine Field Master Plan. Additionally, the commissioners directed that the

⁴⁵ Compare with Doran Proposal on page 12.

Master Plan was to be periodically reviewed, “so that once noise levels and patterns are set at an acceptable level, Paine Field may take advantage of technological and operational improvements.” The mediation panel also recommended a voluntary noise abatement program, that the county request military users to adopt certain noise abatement procedures, adoption of certain land use guidelines for the area around the airport, the addition of a new runway for light aircraft, the use of the Bomarc site for aeronautical-related purposes and industry, the creation of a Paine Field Community Council and certain additional amendments.

B. MRD RECOMMENDATIONS AND DIRECTIVES ACCOMPLISHED

1. Snohomish County and the Cities surrounding Paine Field have adopted land use and zoning regulations that disallow incompatible land uses within certain noise impacted areas around Paine Field based on the recommendations of the Paine Field Steering Committee established by the MRD.
2. A new 3100 foot General Aviation runway has been constructed west of Airport Road. Other runways have not been extended.
3. The Bomarc site has been redeveloped with aviation related business and manufacturing facilities.
4. Military aircraft are no longer based at Paine Field.
5. Large transport crew training operations no longer take place at Paine Field.
6. Voluntary noise abatement procedures have been adopted by airport management, the Boeing Company and other airport users and that information has been prominently posted around the airport and disseminated to airport users.
7. Several aviation related businesses, fixed base operators, and public agencies have leased space at Paine Field and dozens of general aviation hangars and tie downs have been constructed at the airport. The Future of Flight Museum, which includes Boeing tour and aircraft delivery facilities and the Flying Heritage Collection have become established at Paine Field.
8. The airport has constructed noise reducing berms and taken other measures to reduce run-up noise emanating from the airport.
9. The Paine Field Community Council was created and is active in airport matters.
10. The Airport Master Plan has been periodically reviewed considering noise levels and patterns at the airport among other airport issues.

C. OTHER FACTORS THAT IMPACT THE ROLE OF PAINE FIELD

1. Deed restrictions contained in the Deed transferring Paine Field to Snohomish County require that the airport will be available for public use on reasonable conditions and without unjust discrimination.
2. Since the adoption of the MRD, Paine Field has received numerous and substantial federal grants that contain 20 year grant assurances that the airport will be available for public use on reasonable conditions and without unjust discrimination.

3. The Federal Aviation Administration (FAA) has constructed a new control tower at Paine Field and has made other upgrades to navigational aids, runway lighting and other safety features that enhance the capabilities of the airport.
4. The Airline Deregulation Act (ADA) of 1978 limited the authority of local governments to regulate most aspects of the operation of air carriers.
5. The Airport Noise and Capacity Act (ANCA) of 1990 requires all turbojet aircraft weighing more than 75,000 pounds to meet Stage 3 noise levels by January 2000 while prohibiting airport proprietors from imposing “noise or access” restrictions on Stage 3 aircraft and some smaller Stage 2 aircraft without a study and FAA approval.
6. New engine technology placed in service since the adoption of the MRD Document has substantially reduced the noise signature of commercial aircraft. The regional high airport activity forecast for Paine Field through 2021, as set forth in the current airport master plan, indicates that the 65dnl noise signature of such aircraft, which is the maximum FAA recognized threshold of residential land use compatibility, remains entirely within the airport property.
7. The State of Washington adopted the Growth Management Act (GMA) of 1990 which considers airports to be Essential Public Facilities that are to be managed for the benefit of the citizens of the State.
8. The GMA requires the County to prepare and regularly update a Comprehensive Plan for its land use and essential public facilities. The Comprehensive Planning process is extremely thorough and steeped in public involvement. The Comprehensive Plan is vetted both by the County Planning Commission and the County Council through public hearings.
9. The FAA requires the airport to prepare and regularly update an Airport Master Plan (AMP). The Airport Master Planning process is also very thorough and steeped in public involvement. The County Council, as the owner of the airport, adopts the final plan after public hearing.
10. Contrary to the assertions of some in the community, the law firm of Kaplan, Kirsch, & Rockwell L.L.P., retained by the County to review the MRD document stated in its memorandum of October 12, 2006:
 - a. “As a threshold matter, we do not interpret the MRD Document as imposing a mandatory prohibition on scheduled passenger service.”; and,
 - b. that the MRD documents, “refer to several types of operations that are not used in the federal aviation statutes and regulations.and it would have been virtually impossible for the regulated community to know precisely what conduct is prohibited by the MRD document.”; and,
 - c. “It would be immensely challenging for the County to establish that a restriction on passenger service is reasonable and nondiscriminatory.”

BASED ON THE FORGOING FINDINGS, A MAJORITY OF THE 2005-2006 MRD REVIEW PANEL FINDS THAT:

WHEREAS, most of the substantive recommendations and directives contained in the 1978 MRD as amended have been implemented by the County and Cities surrounding the airport; and,

WHEREAS, Federal, State and County land use planning and airport planning laws and regulations have evolved since the MRD was adopted to allow for exhaustive public and airport operator input to land use decisions which impact the role of the airport; and,

WHEREAS, Federal laws have been enacted that maintain federal preemption of state laws and regulations governing airport uses; and

WHEREAS, legal counsel for the County has determined that the MRD does not impose, “a mandatory prohibition on scheduled passenger service”, as some in the community contend; and

WHEREAS, legal counsel for the County noted that, “it would have been virtually impossible for the regulated community to know precisely what conduct is prohibited by the MRD Document.”; and,

WHEREAS, legal counsel for the County further noted that, “the FAA has not approved a restriction on Stage 3 aircraft under ANCA since the statute’s enactment in 1990.” And that, “It would be immensely challenging for the County to establish that a restriction on passenger service is reasonable and nondiscriminatory.”; and,

WHEREAS, while the MRD was a useful document when it was adopted nearly 30 years ago, it has subsequently been misunderstood, misinterpreted and misrepresented such that the perpetuation of the MRD Document as a statement of Snohomish County policy would be a disservice to the County and to the Community;

NOW THEREFORE BE IT RESOLVED, this panel recommends that Snohomish County shall henceforth rely upon the Comprehensive Planning process mandated by the GMA as well as the Airport Master Planning processes mandated by the FAA to determine future land use and operational issues involving Paine Field; and,

BE IT FURTHER RESOLVED, that for the reasons stated above, this panel recommends that the Mitigated Role Determination of 1978 as subsequently amended should not be ratified or revised, but should be retired as a policy document regarding Paine Field’s role within Snohomish County.