



Douglas Hammon
<dhammon@osuairport.org>
02/04/2004 10:05 AM

To Ernest Gubry/AGL/FAA@FAA
cc Wbutch@dlzcorp.com
bcc
Subject Fwd: Items for discussion with FAA

Ernie - A few items below that DLZ would like you and I to discuss tomorrow. These are in addition to the ALP and Ops figures that I would like to discuss.

Please take a minute to review, then let me know when you would like to talk.

Thanks,

Doug

x-recipient: <dhammon@osuairport.org>
From: "Wes Butch" <wbutch@dlz.com>
To: "Douglas Hammon" <dhammon@osuairport.org>
Cc: "Xaviera Jessurun" <xjessurun@wylelabs.com>,
"Jason Whitten" <jwhitten@dlzcorp.com>, "Adrian Stroupe" <astroupe@dlz.com>
Subject: Items for discussion with FAA
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Doug:

As per our phone discussion yesterday, I'm sending you this list of items that DLZ would like to discuss with FAA. Please cover these during your conference call with Ernie tomorrow. Since I cannot make this call, I would like Jason Whitten from our office to sit in on the call. Jason is well informed about the issues and will let me know the results of the conference call. Could you please let me know today how he can be patched in and the time for the call?

Here goes:

1) There has been discussion about the corporate airpark. Our position is that this is a separate project that has independent utility (i.e., is not a prerequisite for the extension nor logically required as a result of the extension). It is not a connected action, and therefore does not have to be included as part of the proposed action analyzed in the EA. It is not uncommon for an EA to include parts but not all of a master plan as the proposed action. The key question where we need FAA's advice is whether we want to include this as a "reasonably foreseeable" future action that should be assessed in our cumulative impact analysis. With it showing up on the Master Plan, my sense is that it is reasonably foreseeable. As such, we should account for this in the forecast operations/runway usage/runway assignments for the noise analysis. This will preclude objections from Zoll on this issue.

2) You had mentioned that the ILS will require one or more markers off the airport property. The

location(s) of the marker(s) will need to be analyzed in the EA. We need to know where these will be located. You had mentioned that one of the markers is to be located on a piece of property owned by Worthington where they intend to create a park. Planned parks qualify for protection under Section 4(f) of the Department of Transportation Act. This section requires a detailed analysis of avoidance and minimization of impacts. Because of the strict requirements, this is one of the most commonly litigated parts of NEPA documents. We have two options. If we put the marker in the park, we will need to show that there is no feasible and prudent alternative to doing so. We will need information from you to justify this claim. The other option is to move the marker out of the park. Our advice is to move it out of the park if at all possible. We'd like FAA's opinion on this matter. Also, could you please send us a drawing of the park property so we know where this is?

3) Zoll has raised the concern that the purpose and need is based on information generated as part of the 2002 master plan update that is not formally approved. Our position is that the information generated as part of the master plan update study can be used to justify the project regardless of whether the update is formally approved or not. In other words, the information is sound and based on accepted airport planning procedures, so there is no prohibition on using it. We would like FAA to provide their position on this topic.

4) We would like to hear FAA's position regarding information sharing with Zoll. As I had indicated in an earlier email, our preference is to hold back most information until the EA is released since that is how the NEPA process is intended to work (i.e., the EA comment period is when stakeholders are supposed to provide their input). Certainly there will be coordination along the way and certain items we share (e.g., the noise model inputs, etc.), but as a general rule, I think we're better off waiting. Also, related to this item, we're curious about what information is subject to discovery by Zoll should the project be litigated. If we copy the OSU attorney in emails, are these then protected by attorney-client privilege and not subject to discovery? Just want to know what would be released or not.

5) Last, OEPA has requested that DLZ also perform additional analysis beyond the QHEI investigation that was included in our scope. They are asking that we investigate the three ditches that drain the airport under their "primary headwaters" program. This program is intended to protect headwater streams with less than one square mile of drainage area. OEPA acknowledges that these are just drainage ditches (which is why we believed that they are not subject to these requirements), but they like to "err on the side of caution" since these may at one time have been intermittent streams which were channelized. This is not a great amount of additional work, so it may just be easier to do it rather than fight them on it. Would like to hear FAA's opinion on this one since Ernie has worked on a lot of airports in Ohio. Will send to Doug a copy of the meeting memo from our meeting with OEPA later.

Doug - look forward to hearing from OSU and FAA about these items.

Wes