



December 5, 2013

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Dear Administrator Huerta, Director Pickard, Director Halikowski, and Manager Klein,

- RE: 1. Ongoing violation of the National Environmental Policy Act (“NEPA”) and the National Historic Preservation Act (“NHPA”) by the FAA and its Grand Canyon National Park Airport-expansion partner, ADOT;
2. Lack of truthfulness by ADOT in Applications to FAA for Federal Assistance from the FAA for Grand Canyon National Park Airport expansion; and
3. This correspondence serves as a **CEASE and DESIST NOTICE to FAA and ADOT** to stop spending of federal funds related to Grand Canyon National Park Airport-expansion until (a) violations of NEPA and NHPA are remedied, and (b) until harm to Grand Canyon National Park and the Havasupai is stopped, and (3) until FAA and ADOT terminate their conspiracy to steal federal reserved water from the Park and the Havasupai.

The Center for Biological Diversity (“Center”) is a non-profit, public interest, conservation organization with more than 625,000 members and online activists dedicated to the protection of endangered species and wild places.

The State of Arizona and its Department of Transportation (“ADOT”) own the Grand Canyon National Park Airport. “The Grand Canyon National Park Airport has been operating

with a budget deficit for several years.”¹ The State of Arizona and ADOT now plan to expand their airport “to eliminate this deficit.”²

On June 16, 2013, ADOT formally adopted its 2014 – 2018, Five-Year Transportation Facilities Construction Program re-authorizing expansion of ADOT’s Grand Canyon National Park Airport in Tusayan, Arizona.³ ADOT’s June 16, 2013, action follows its authorization and reauthorization of its Grand Canyon National Park Airport expansion-authorizing Five-Year Transportation Facilities Construction Program from 2010 – 2014,⁴ 2011 – 2015,⁵ 2012 – 2016,⁶ and 2013 – 2014.⁷

This expansion is nearly entirely funded by federal money.⁸ The amount of federal money provided for the expansion of Grand Canyon National Park is significant - tens of millions of federal dollars.⁹ ADOT already specifically budgets the very large amounts of federal money secured from FAA for the expansion of its Grand Canyon National Park Airport.¹⁰

¹ THE CASE FOR REMODELING THE EXISTING TERMINAL AT THE GRAND CANYON NATIONAL PARK AIRPORT (GCN); Michael Halpin, Airport Manager, Arizona Department of Transportation, January 9, 2013.; “Grand Canyon airport expansion could increase jet service, but area businesses wary,” KNAU, July 31, 2012.; “Proposed Grand Canyon Airport Expansion,” Shelley Smithson, Flagstaff Business News; August 6, 2012.

² THE CASE FOR REMODELING THE EXISTING TERMINAL AT THE GRAND CANYON NATIONAL PARK AIRPORT (GCN); Michael Halpin, Airport Manager, Arizona Department of Transportation, January 9, 2013.; and, Five-Year Transportation Facilities Construction Program 2010 – 2014, Airport Capital Improvement Program, Airport Projects by Airport, ADOT, [ACIP 10-14 Final Program](#); Five-Year Transportation Facilities Construction Program 2011 – 2015, Airport Capital Improvement Program, Airport Projects by Airport, ADOT, [ACIP 11-15 Final Program](#); Five-Year Transportation Facilities Construction Program 2012 – 2016, Airport Capital Improvement Program, Airport Projects by Airport, ADOT, [ACIP 12-16 Final Program](#); Five-Year Transportation Facilities Construction Program 2013 – 2017, Airport Capital Improvement Program, Airport Projects by Airport, ADOT, [ACIP 13-17 Final Program](#); Five-Year Transportation Facilities Construction Program, 2014 – 2018, , Airport Projects – by Airport, ADOT; <http://www.azdot.gov/planning/transportation-programming/current-program>.; TERMINAL AREA PLAN FOR GRAND CANYON NATIONAL PARK AIRPORT; Prepared for the ARIZONA DEPARTMENT OF TRANSPORTATION by Coffman Associates, Inc. in association with LEA - Architects, LLC and Z & H Engineering, Inc.; December 2009.; “Grand Canyon airport expansion could increase jet service, but area businesses wary,” KNAU, July 31, 2012.; “Proposed Grand Canyon Airport Expansion,” Shelley Smithson, Flagstaff Business News; August 6, 2012.

³ ADOT State Transportation Board Meeting Minutes; Lakeside, Arizona, June 14, 2013.; ADOT Update, <http://www.azdot.gov/planning/transportation-programming/current-program>.

⁴ Five-Year Transportation Facilities Construction Program 2010 – 2014, Airport Capital Improvement Program, Airport Projects by Airport, ADOT, [ACIP 10-14 Final Program](#).

⁵ Five-Year Transportation Facilities Construction Program 2011 – 2015, Airport Capital Improvement Program, Airport Projects by Airport, ADOT, [ACIP 11-15 Final Program](#).

⁶ Five-Year Transportation Facilities Construction Program 2012 – 2016, Airport Capital Improvement Program, Airport Projects by Airport, ADOT, [ACIP 12-16 Final Program](#).

⁷ Five-Year Transportation Facilities Construction Program 2013 – 2017, Airport Capital Improvement Program, Airport Projects by Airport, ADOT, [ACIP 13-17 Final Program](#).

⁸ <http://www.azdot.gov/planning/airportdevelopment/development-and-planning> ; and <http://www.azdot.gov/planning/airportdevelopment/development-and-planning/five-year-program>

⁹ Five-Year Transportation Facilities Construction Program 2010 – 2014, Airport Capital Improvement Program, Airport Projects by Airport, ADOT, [ACIP 10-14 Final Program](#); Five-Year Transportation Facilities Construction Program 2011 – 2015, Airport Capital Improvement Program, Airport Projects by Airport, ADOT, [ACIP 11-15 Final Program](#); Five-Year Transportation Facilities Construction Program 2012 – 2016, Airport Capital Improvement Program, Airport Projects by Airport, ADOT, [ACIP 12-16 Final Program](#); Five-Year Transportation Facilities Construction Program 2013 – 2017, Airport Capital Improvement Program, Airport Projects by Airport, ADOT, [ACIP 13-17 Final Program](#); Five-Year Transportation Facilities Construction Program, 2014 – 2018, , Airport Projects – by Airport, ADOT; <http://www.azdot.gov/planning/transportation-programming/current-program>.

¹⁰ Ibid.

The Overview of ADOT's June 14, 2013, Five-Year Transportation Facilities Construction Program, 2014 – 2018 says,

“Airport Program Overview

In conjunction with Arizona's public airports and the Federal Aviation Administration (FAA), ADOT develops the Tentative Five-Year Airport Capital Improvement Program (ACIP) to parallel the FAA's Airport Capital Improvement Program. The ACIP has the dual objective of maximizing the use of State dollars for airport development and maximizing FAA funding for Arizona airports. Federal monies are derived mainly from taxes on airline tickets and are distributed by the Federal Aviation Administration directly to local airports through the national Airport Improvement Program.¹¹

Specifics from ADOT's 2014 – 2018, Five-Year Transportation Facilities Construction Program follow:

“GRAND CANYON NATIONAL PARK – COCONINO...FY 2014...Apron: Construct Apron – Standards...Design and constr. apron extension from south apron to ARFF, 250 ft x 1,100 ft (275,000 sf) and install guidance signs to meet Part 139 standards...Federal Share...\$3,187,100...
FY 2014...Terminal Development: <Improve/Modify/Rehabilitate> Terminal Building – Standards... Rehab. extg. terminal to meet standards for security screening, secured lounge, and baggage handling. Includes moving air tours that do not require security into new permanent modular building...Federal Share...\$637,420...
FY 2015... Runways:<Construct/Extend/Improve> Runway Safety Area [Non-Primary Airports] – Standards...Provide 10 ft asphalt shoulders along both sides of Rwy 3/21, 8,999 ft...Federal Share...\$500,830...
FY 2016...Other:<Construct/Improve/Repair> <Fuel Farm/Utilities> [MAP] – Other...Constr. water well on site to be determined by survey...Federal Share...\$1,365,900...
FY 2017...Terminal Development:Construct Terminal Building – Capacity...Ph.1 of terminal constr. ... Federal Share...\$4,553,000...
FY 2018...Terminal Development:Construct Terminal Building – Capacity...Ph. 2 constr. of new terminal building. ...Federal Share...\$4,553,000...**Airport Total:...Federal Share...\$14,933,840...**¹²

¹¹ Five-Year Transportation Facilities Construction Program, 2014 – 2018, Airport Projects – by Airport; Arizona Department of Transportation, <http://www.azdot.gov/search?q=Airport%20Program%20Overview>.

¹² Five-Year Transportation Facilities Construction Program, 2014 – 2018, Airport Projects – by Airport, Arizona Department of Transportation, page 134.

From ADOT's 2010-2014, Five-Year Transportation Facilities Construction Program Airport Capital Improvement Program, Airport Projects by Airport, we find:

“GRAND CANYON NATIONAL PARK COCONINO...FY2011...Terminal Development:Construct Terminal Building – Capacity... Terminal location per ALP is mid field...Federal Share...\$3,800,000... [page 23]

GRAND CANYON NATIONAL PARK COCONINO...FY 2012...Terminal Development:Construct Terminal Building – Capacity...

Terminal building located at mid point of airport per ALP...Federal Share...\$3,800,000... [page 38]

GRAND CANYON NATIONAL PARK COCONINO...

FY 2011 Terminal Development:Construct Terminal Building – Capacity... Terminal location per ALP is mid field Federal Share...\$3,800,000...

FY 2012 Terminal Development:Construct Terminal Building – Capacity... Terminal building located at mid point of airport per ALP...Federal Share...\$3,800,000...

Airport Total:...Federal Share...\$7,600,000... [page 83]¹³

From ADOT's 2011 – 2015, Five-Year Transportation Facilities Construction Program Airport Capital Improvement Program, Airport Projects by Airport we find,

“GRAND CANYON NATIONAL PARK...FY 2011...Planning:Conduct <Environmental Assessment/Environmental Impact Statement/Feasibility> <study/update>... Environmental Assessment for the Terminal Building and other airport projects...Federal Share...\$190,000....

FY 2012 Apron:Construct Apron - Capacity Design of apron south of existing apron to new ARFF building to open leasable adjacent land 325,000 sf or 36,111 sy...Federal Share...\$95,000...

FY 2012 Terminal Development:Construct Terminal Building – Capacity...Design of new terminal building to expand airport capacity and increase revenue...Federal Share...\$475,000...

FY 2013 Apron:Construct Apron – Capacity...Construct expansion of south apron to ARFF Bldg 325,000 sf or 36,111 sy...Federal Share...\$475,000...

FY 2013 Terminal Development:Construct Terminal Building – Capacity...Construction of new terminal building - Phase II...Federal Share...\$950,000...

FY 2014 Terminal Development:Construct Terminal Building – Capacity...Construction of terminal building - Phase II...Federal Share...\$1,425,000...

¹³ Five-Year Transportation Facilities Construction Program 2010 – 2014, Airport Capital Improvement Program, Airport Projects by Airport, ADOT, [ACIP 10-14 Final Program](#).

FY 2015 Planning:<Conduct/Update> <Airport Master Plan Study {ALP, EA, etc.}>...Update airport Master Plan due to new construction...Federal Share...\$475,000...

FY 2015 Terminal Development: Construct Terminal Building – Capacity...Construction of terminal building - Phase III... Federal Share...\$950,000...

Airport Total...Federal Share: \$6,270,000... [PAGE 18]¹⁴

From ADOT’s 2012 – 2016, Five-Year Transportation Facilities Construction Program, Airport Capital Improvement Program, ADOT, Airport Projects by Airport, we find,

“GRAND CANYON NATIONAL PARK...FY 2012 ... 2012 Terminal Development:Construct Terminal Building - Capacity... Followup to EA; Design of new terminal building to expand airport capacity and increase revenue...Federal Share... \$237,500...”

FYI 2012...Apron:Construct Apron – Capacity...Design of apron south of existing apron to new ARFF building to open leaseable adjacent land - 325,000 sf or 36,111 sy..Federal Share...\$47,500...

FY 2013... Terminal Development:Construct Terminal Building – Capacity... Ph. 2 design of new terminal building... Federal Share...\$475,000...”

FY 2013 Apron:Construct Apron – Capacity...Design Ph. 2 of expansion of south apron to ARFF Bldg 325,000 sf or 36,111 sy..Federal Share...\$47,500...

FY 2014 Terminal Development:Construct...Terminal Building – Capacity...Ph. 1 of terminal construction.. Federal Share...\$1,425,000...

FY 2014 Apron:Construct Apron – Capacity...Ph. 1 of apron expansion construction 325,000 sf or 36,111 sy...Federal Share...\$1,425,000...

FY 2015 Planning:<Conduct/Update> <Airport Master Plan Study {ALP, EA, etc.}>...Update Airport Master Plan / Airport Layout Plan due to changes in the airport environment...Federal Share...\$475,000...

FY 2015...Terminal Development:Construct Terminal Building – Capacity...Ph. 2 of new terminal building construction...Federal Share...\$950,000...

FY 2015... Apron:Construct Apron – Capacity...Ph. 2 of south apron construction, extending apron to ARFF site 325,000 sf or 36,111 sy...Federal Share...\$1,425,000...

FY 2016...Apron:Construct Apron – Standards...Ph. 3 - Final of terminal construction..Federal Share...\$950,000...

FY 2016...Apron:Rehabilitate Apron – Reconstruction...Crackseal and sealcoat apron east of Twy P...Federal Share...\$950,000...

Airport Total:...Federal Share...\$9,072,500...”¹⁵

¹⁴ Five-Year Transportation Facilities Construction Program 2011 – 2015, Airport Capital Improvement Program, Airport Projects by Airport, ADOT, [ACIP 11-15 Final Program](#).

From ADOT's 2013 – 2017, Five-Year Transportation Facilities Construction Program Airport Capital Improvement Program, ADOT, Airport Projects by Airport, we find on page 28,

“GRAND CANYON NATIONAL PARK – COCONINO...FY...2013...

Other:<Construct/Improve/Repair> <Fuel Farm/Utilities> [MAP] – Other...Conduct water survey, design & constr. a water well to supply water to two extg. water tanks on airport...Federal Share...\$1,821,200...”

FY 2014...Apron:Construct Apron - Standards Design & constr. apron extension from south apron to ARFF, 250 ft x 1,100 ft (275,000 sf)...Federal Share...\$2,731,800...

FY 2014...Runways:<Construct/Extend/Improve> Runway Safety Area [Non-Primary Airports] – Standards...Provide asphalt pavement of 10 ft on both sides of Rwy approx. 8,999 ft...Federal Share...\$455,300...

FY 2015... Terminal Development:Construct Terminal Building – Capacity... Ph. 1 design and constr. of new terminal at location determined by previous completed terminal area plan...Federal Share...\$4,553,000...

FY 2016 Other:<Construct/Improve/Repair> <Fuel Farm/Utilities> [MAP] – Other...Constr. fuel farm to support commercial air ops...Federal Share...\$3,642,400...

FY 2016... Terminal Development:Construct Terminal Building – Capacity... Ph. 2 constr. of new terminal at location determined by previous completed terminal area plan...Federal Share...\$4,553,000...

.FY 2017... Terminal Development:Construct Terminal Building – Capacity... Ph. 3 constr. of new terminal & associated development (i.e. parking) at location determined by previously completed terminal area plan...Federal Share...\$4,553,000...

Airport Total Federal Share...\$23,493,480...¹⁶

The Airport currently loses money for ADOT.¹⁷ ADOT plans to expand its Grand Canyon National Park Airport with the expressed goal to “capture” destination tourists from Flagstaff, Phoenix, and Las Vegas,¹⁸ and to become profitable.¹⁹

¹⁵ Five-Year Transportation Facilities Construction Program 2011 – 2015, Airport Capital Improvement Program, Airport Projects by Airport, ADOT, [ACIP 11-15 Final Program](#).

¹⁶ Five-Year Transportation Facilities Construction Program 2013 – 2017, Airport Capital Improvement Program, Airport Projects by Airport, ADOT, [ACIP 13-17 Final Program](#).

¹⁷ “Grand Canyon airport expansion planned,” Felicia Fonseca, Associated Press, November 1, 2011.

¹⁸ ADOT Terminal Area Plan for Grand Canyon National Park Airport, December 2009.

¹⁹ TERMINAL AREA PLAN for GRAND CANYON NATIONAL PARK AIRPORT; Prepared for the ARIZONA DEPARTMENT OF TRANSPORTATION by Coffman Associates, Inc. in association with LEA -Architects, LLC and Z & H Engineering, Inc.; December 2009.; “Grand Canyon airport expansion could increase jet service, but area businesses wary,” KNAU, July 31, 2012.; “Proposed Grand Canyon Airport Expansion,” Shelley Smithson, Flagstaff Business News; August 6, 2012.; THE CASE FOR REMODELING THE EXISTING TERMINAL AT THE GRAND CANYON NATIONAL PARK AIRPORT (GCN); Michael Halpin, Airport Manager, Arizona Department of Transportation, January 9, 2013.

On November 1, 2011, in “Grand Canyon airport expansion planned,” the Associated Press reports,

“FLAGSTAFF, Ariz. - A proposal to build a much larger terminal at Grand Canyon National Park Airport would allow for commercial passenger flights to the area and could boost the number of visitors to as many as 1 million each year, an Arizona transportation official said Tuesday.

The airport logged more than 318,000 passengers in 2010, and almost all of that traffic was related to aerial tours of the canyon on smaller aircraft. In 2008, air tours made up 95 percent of the airport’s operations, according to a study on terminal plans.

Building a bigger terminal would meet security and baggage requirements for commercial airlines, said Laura Douglas, a state Department of Transportation spokeswoman.

“This will allow people to book their own tours, their own packages and get to the airport a lot more frequently and see one of Arizona’s biggest draws,” she said.

Visitors from across the country typically take ground transportation into the park or fly into Las Vegas area airports before boarding smaller planes to the Grand Canyon airport. But the Department of Transportation wants to bring in flights from other major hubs, such as Denver, she said...²⁰

ADOT’s December 2009, Terminal Area Plan for Grand Canyon National Park Airport acknowledges that the plan to “capture” destination tourists will not only bring in new destination tourists, but will bring more local automobile traffic into Tusayan.²¹ But, the Park’s infrastructure and facilities are already overburdened and overcrowded.²²

The Associated Press reports,

“...Visitation to the park has remained relatively flat at 4.5 million annually, but parking shuttles from Tusayan are routinely crowded, and the parks’ facilities are overwhelmed, park Superintendent Dave Uberuaga said.

“I haven’t seen any actions that would indicate a sensitivity for what is too much,” he said...²³

Isolated consideration of the expansion of Grand Canyon National Park Airport completely ignores the documented, local water shortage, and the documented local housing shortage. There is not enough local water available to sustain the current local, groundwater-dependent population, much less any new development, without harming the springs and seeps

²⁰ “Grand Canyon airport expansion planned,” Felicia Fonseca, Associated Press, November 1, 2011.

²¹ Ibid.

²² “Grand Canyon airport expansion planned,” Felicia Fonseca, Associated Press, November 1, 2011.

²³ Ibid.

of Grand Canyon National Park and the Havasupai Indian Reservation.²⁴ There is not enough local housing to support airport expansion.²⁵

No airport expansion activities can legally occur without addressing the fact that airport expansion is intimately dependent upon the finding of a new water source and the development of new local housing.²⁶ No airport expansion can legally occur without addressing the inter-dependent, inter-related development in the Tusayan area at Camper's Village, Kotzin Ranch and Ten X Ranch. New development at Camper's Village, Kotzin Ranch and Ten X Ranch is entirely dependent upon the federal undertaking of the granting of a new, greatly expanded right of way across federal, U.S. Forest Service land to Kotzin Ranch and Ten X Ranch.²⁷ The developments at Camper's Village, Kotzin Ranch and Ten X Ranch are projects of STILO DEVELOPMENT GROUP USA, LP ("Stilo"). Stilo plans more than 3 million square feet of commercial space and up to approximately 2,200 new residential dwellings.²⁸

Groundwater in the Tusayan area comes from the same source aquifer as the water for the seeps and springs of the Grand Canyon National Park's south rim and of the Havasupai Indian Reservation.²⁹ No more significant pumping of local groundwater can take place without violating the federal reserved water rights of Grand Canyon National Park and the Havasupai.³⁰

²⁴ "Canyon plan draws praise, concerns," Prescott Courier, December 11, 1990.; Tusayan Area Plan & Design Review Overlay, An Amendment to the Coconino County Comprehensive Plan; Area Plan Approved by the Coconino County Board of Supervisors June 19, 1995, amended May 5, 1997.; "County supervisors to decide fate of new housing in Tusayan," Western Times, November 10, 2009.; "County Board of Supervisors Further Delay Tusayan Housing Decision," Western Times, November 20, 2009.; Montgomery & Associates, Inc., 1998. Supplemental Assessment of the Hydrologic Conditions and Potential Effects of Proposed Ground Water Withdrawal, Coconino Plateau Groundwater Sub-Basin, Coconino County, Arizona. 85 p., in Appendix of the Final Environmental Impact Statement for Tusayan Growth, Kaibab National Forest.; Kessler, 2002. Grand Canyon Springs and the Redwall-Muav Aquifer: Comparison of Geologic Framework and Groundwater Flow Models, Northern Arizona, December 2002.; Bills, D.J., Flynn, M.E., and Monroe, S.A., 2007, Hydrogeology of the Coconino Plateau and adjacent areas, Coconino and Yavapai Counties, Arizona: U.S. Geological Survey Scientific Investigations Report 2005-5222, 101 p., 4 plates.

²⁵ TOWN OF TUSAYAN ZONE CHANGE APPLICATION; Stilo Development Group USP, LP; RE: Zone change to allow a mixed-use development with residential housing, education, civic, retail and commercial facilities; 8/21/2011.; KOTZIN RANCH APPLICANT'S NARRATIVE REPORT; PLANNED COMMUNITY DISTRICT ZONING SUBMITTAL; TOWN OF TUSAYAN, ARIZONA; ORIGINAL SUBMITTAL: AUGUST 1, 2011; RESUBMITTED: SEPTEMBER 26, 2011.; PLANNED COMMUNITY DISTRICT ZONING SUBMITTAL TOWN OF TUSAYAN, ARIZONA; ORDINANCE NO. 2011-11-02-04; approved November 2, 2011.; Draft TOWN OF TUSAYAN GENERAL PLAN – 2023; Adopted by the Mayor and Council of the Town of Tusayan on _____, 2013; web accessed October 20, 2013.

²⁶ National Environmental Policy Act; National Historic Protection Act; *Cappaert v. United States*, 426 U.S. 128 (1976); *Greer v. Connecticut*, 161 U.S. 519 (1896); *Illinois Central Railroad v. Illinois*, 146 U.S. 387 (1892); *Kansas v. Colorado*, 115 S. Ct. 1995; *Martin v. Waddell*, 41 U.S. (16 Pet.) 367 (1842); *Pollard v. Hagen*, 44 U.S. (3 How) 212 (1845); *Nebraska v. Wyoming*, 115 S. Ct. 1033, 1937 (1995); *Tahoe Sierra Preservation Council v. Tahoe Regional Planning Agency*, 122 S. Ct. 1465 U.S. (2002); and *Ward v. Race Horse*, 163 U.S. 504 (1896).

²⁷ APPLICATION FOR TRANSPORTATION AND UTILITY SYSTEMS AND FACILITIES ON FEDERAL LANDS; Stilo Development Group USA, LP; January 4, 2013.

²⁸ <http://tusayan-az.gov/general-plan/>

²⁹ Montgomery & Associates, Inc., 1998. Supplemental Assessment of the Hydrologic Conditions and Potential Effects of Proposed Ground Water Withdrawal, Coconino Plateau Groundwater Sub-Basin, Coconino County, Arizona. 85 p., in Appendix of the Final Environmental Impact Statement for Tusayan Growth, Kaibab National Forest.; Kessler, 2002. Grand Canyon Springs and the Redwall-Muav Aquifer: Comparison of Geologic Framework and Groundwater Flow Models, Northern Arizona, December 2002.; Bills, D.J., Flynn, M.E., and Monroe, S.A., 2007, Hydrogeology of the Coconino Plateau and adjacent areas, Coconino and Yavapai Counties, Arizona: U.S. Geological Survey Scientific Investigations Report 2005-5222, 101 p., 4 plates.

³⁰ Montgomery & Associates, Inc., 1998. Supplemental Assessment of the Hydrologic Conditions and Potential Effects of Proposed Ground Water Withdrawal, Coconino Plateau Groundwater Sub-Basin, Coconino County, Arizona. 85 p., in Appendix

Montgomery and Associates (1998),³¹ Kessler (2002),³² and USGS (2007)³³ establish the connectivity between the water pumped at the Grand Canyon National Park Airport and the surrounding area and the springs and seeps of Grand Canyon National Park and the Havasupai Indian Reservation. The hydrology studies establish that “additional pumping of groundwater from the Redwall-Muav aquifer can significantly impact the seeps and springs below the South Rim.” (Kessler [2002] summarizing Montgomery and Associates [1998].)

The sanctity and supremacy of federal reserved water rights are already settled in federal law.³⁴ Federal agencies must respect these rights.

States must also respect these rights;³⁵ however, the State of Arizona and its Department of Water Resources (“ADWR”) are notorious for their callous disregard for federal reserved water rights in the service of its favored developer constituents.³⁶ The State of Arizona’s and ADWR’s service is now being actively challenged in court.³⁷

On multiple occasions over the course of the last seven years, Grand Canyon National Park (GCNP) has expressed “serious concerns” to FAA and to ADOT about ADOT’s planned Grand Canyon National Park Airport expansion. The Park is concerned about the expansion having “the potential to cause significant adverse impacts to GCNP resources...”³⁸

of the Final Environmental Impact Statement for Tusayan Growth, Kaibab National Forest.; Kessler, 2002. Grand Canyon Springs and the Redwall-Muav Aquifer: Comparison of Geologic Framework and Groundwater Flow Models, Northern Arizona, December 2002.; Bills, D.J., Flynn, M.E., and Monroe, S.A., 2007, Hydrogeology of the Coconino Plateau and adjacent areas, Coconino and Yavapai Counties, Arizona: U.S. Geological Survey Scientific Investigations Report 2005–5222, 101 p., 4 plates.; *Cappaert v. United States*, 426 U.S. 128 (1976); *Greer v. Connecticut*, 161 U.S. 519 (1896); *Illinois Central Railroad v. Illinois*, 146 U.S. 387 (1892); *Kansas v. Colorado*, 115 S. Ct. 1995; *Martin v. Waddell*, 41 U.S. (16 Pet.) 367 (1842); *Pollard v. Hagen*, 44 U.S. (3 How) 212 (1845); *Nebraska v. Wyoming*, 115 S. Ct. 1033, 1937 (1995); *Tahoe Sierra Preservation Council v. Tahoe Regional Planning Agency*, 122 S. Ct. 1465 U.S. (2002); and *Ward v. Race Horse*, 163 U.S. 504 (1896).

³¹ Montgomery & Associates, Inc., 1998. Supplemental Assessment of the Hydrologic Conditions and Potential Effects of Proposed Ground Water Withdrawal, Coconino Plateau Groundwater Sub-Basin, Coconino County, Arizona. 85 p., in Appendix of the Final Environmental Impact Statement for Tusayan Growth, Kaibab National Forest.

³² Kessler, 2002. Grand Canyon Springs and the Redwall-Muav Aquifer: Comparison of Geologic Framework and Groundwater Flow Models, Northern Arizona, December 2002.

³³ Bills, D.J., Flynn, M.E., and Monroe, S.A., 2007, Hydrogeology of the Coconino Plateau and adjacent areas, Coconino and Yavapai Counties, Arizona: U.S. Geological Survey Scientific Investigations Report 2005–5222, 101 p., 4 plates.

³⁴ *Cappaert v. United States*, 426 U.S. 128 (1976); *Greer v. Connecticut*, 161 U.S. 519 (1896); *Illinois Central Railroad v. Illinois*, 146 U.S. 387 (1892); *Kansas v. Colorado*, 115 S. Ct. 1995; *Martin v. Waddell*, 41 U.S. (16 Pet.) 367 (1842); *Pollard v. Hagen*, 44 U.S. (3 How) 212 (1845); *Nebraska v. Wyoming*, 115 S. Ct. 1033, 1937 (1995); *Tahoe Sierra Preservation Council v. Tahoe Regional Planning Agency*, 122 S. Ct. 1465 U.S. (2002); and *Ward v. Race Horse*, 163 U.S. 504 (1896).

³⁵ *Ibid.*

³⁶ Water Follies: Groundwater Pumping and the Fate of America’s Fresh Waters, Robert Glennon, 2002.; The Adjudication That Ate Arizona Water Law, Joseph M. Feller, Arizona Law Review, Volume 49 Number 2; 2007.; Robin Silver, M.D.; United States of America U.S. Department of Interior; Patricia Gerrodette, Plaintiffs, vs. Sandra A. Fabritz-Whitney; Arizona Department of Water Resources; Pueblo del Sol Water Company, Defendants; Case No. LC2013-000264-001DT.

³⁷ Robin Silver, M.D.; United States of America U.S. Department of Interior; Patricia Gerrodette, Plaintiffs, vs. Sandra A. Fabritz-Whitney; Arizona Department of Water Resources; Pueblo del Sol Water Company, Defendants; Case No. LC2013-000264-001DT.

³⁸ Correspondence, to, ADOT Director John Halikowski; from, David V. Uberuaga, Grand Canyon National Park Superintendent; RE: comments submitted by the National Park Service (NPS), Grand Canyon National Park (GCNP), regarding the 2014-2018 Arizona Department of Transportation (ADOT) Tentative Five-Year Transportation Facilities Construction Program (ADOT 5 Year Program); May 17, 2013.

Grand Canyon National Park states,

“...Following is a synopsis of our concerns around impacts to GCNP resources...

Grand Canyon National Park Airport (GCNPA) — Coconino County...The ADOT 5 Year Program identifies almost \$19 million for improvements at GCNPA that will facilitate increased operations, visitation, and water use that may result in significant adverse impacts to GCNP resources. NPS submitted comments throughout public/stakeholder meetings held by ADOT on the GCNPA Master Plan in 2006 and updated in 2009, and also in 2012 on the ADOT 5 Year Program for 2013-2017. Our comments outlined serious concerns about potential airport improvements and expansion, including increased noise in the park, increased passengers to GCNPA, and increased demand for scarce water resources. These improvements and resulting increases have the potential to severely impact springs and other water sources in GCNP, place increased pressures on park facilities, and significantly alter the visitor's park experience. For instance:

- Increasing passengers at the airport is likely to increase visitors to GCNP, adding more people and associated impacts to already overburdened facilities and infrastructure....
- Improvements that increase the numbers of passengers at the airport will increase the number of visitors to GCNP, resulting in an increase in park crowding, water use, waste disposal, and impacts to park resources and values.

All of these concerns need to be evaluated and addressed before proceeding with the improvements. They have the potential to cause significant adverse impacts to GCNP resources and the human environment, have the potential to be controversial, and are of significant interests at the local, regional, national and international levels...

Ground Water Concerns and Proposed Water Well at GCNPA...The ADOT plan to construct a groundwater well to supply water to the expected increase in airport traffic, and eliminating the current water catchment system at GCNPA, is especially concerning to NPS. The well has potential to cause significant adverse impacts to GCNP resources and the human environment, has the potential to be controversial, and is of significant interests at the local, regional, national and international levels; thus, an Environmental Impact Statement (EIS) is warranted. We request that funding be identified to conduct the EIS in compliance with the requirements of NEPA (we also officially ask that NPS be a cooperating agency).

The 2012 Request for Proposal (RFP) for the well feasibility study at GCNPA stated ADOT was seeking the development of a groundwater well or wells that have the capacity to produce 30 gallons per minute (gpm), or 48 acre-feet per year, and meet an expected increase in use from 10,000 gallons per day to 20,000 gallons per day.

This volume of groundwater withdrawal within the Grand Canyon watershed has the potential to adversely impact spring flows and ecosystems along the South Rim of Grand Canyon, especially between Havasu Creek and the Little Colorado River. The NPS is on record in opposition to additional groundwater extraction within the Grand Canyon watershed, and views any reduction or degradation of springs and seeps as an

infringement on the park's federal reserved water rights. The sum average base flow of ALL of the named springs (eight) below the South Rim between Garden Creek and Cottonwood Creek equals the 30 gpm target production of the GCNPA well identified in the RFP. Impact to these locations would be devastating to the ecosystems supported by these waters in an otherwise arid landscape, as well as reducing or eliminating human consumptive availability and harming their unquantifiable and irretrievable cultural significances.

The structural feature targeted for well installation, the Tusayan Graben, is a down-dropped block located along the Vishnu Fault that has long been identified as a likely source of successful groundwater development. A correctly-sited well in this area will likely be able to produce a greater amount of water than the 30 gpm the GCNPA requires. Once installed, the well will only be limited by the results of aquifer pump tests and the size of the pump installed. There are already three existing wells developed in this structural feature in the Town of Tusayan less than 1/2 mile from GCNPA. Aquifer drawdown from pumping at a new well has the potential to decrease the available groundwater at the Tusayan wells over time, requiring them to be deepened or replaced in the future, which could create new stresses to Grand Canyon springs and seeps.

Previous groundwater modeling (E.L. Montgomery and Associates, 1999) specifically investigating the impacts of groundwater withdrawal on springs and seeps in this area concluded that continued or expanded groundwater development will decrease the flows of Havasu, Hermit, and Indian Gardens springs (the only three springs modeled). Adding to the modeling results from this study are that the region has been in prolonged drought conditions since modeling was conducted, and that current climate change scenarios call for reduced water availability and increased water stresses in the future..."³⁹

On October 25, 2012, Grand Canyon National Park had expressed "serious concerns about any project posing potential threats to water and other resources within the Park and on surrounding lands." The Park believes,

"...that this proposal for the development of wells and subsequent expansion of water extraction from the regional aquifer, and the cumulative water development proposals for the Tusayan area, are contrary to the interests of the people of Arizona and more broadly, the people of the United States."⁴⁰

Also on October 25, 2012, Grand Canyon National Park wrote to the FAA,

"...Grand Canyon National Park (Park) has serious concerns about this proposal, especially regarding potential threats to water and other resources within the Park and

³⁹ Ibid.

⁴⁰ Correspondence, to, ADOT Director John Halikowski; from, David V. Uberuaga, Grand Canyon National Park Superintendent; copies to FAA Western-Pacific Region Airports Division Manager Mark McClardy, and FAA Senior Advisor for Environmental Policy Lynne Pickard, RE: Request for Proposals, Solicitation Number, ADOT-13-00002140, for Well Feasibility Study and Site Evaluation for the Grand Canyon National Park Airport (GCN); October 25, 2012.

on surrounding lands. The drilling of a well into the regional aquifer and developing a groundwater supply has the potential for major adverse environmental consequences. The development of groundwater extraction well(s) that have the capacity to produce 30 gallons/minute (48 acre feet per year) and meet an expected increase from 10,000 gallons/day to 20,000 gallons/day is likely to adversely impact spring flow and spring ecosystems along the South Rim of the Grand Canyon, especially between Havasu Creek and the Little Colorado River. As a point of comparison, 30 gallons/minute is the sum average base flow of ALL the named springs (8) between Indian Garden and Cottonwood Creek within the Park...”⁴¹

The central sacred and cultural importance to the Havasupai of the waters threatened by airport and airport-related expansion is well established. A description of the central sacred importance of these waters to the Havasupai is found on the Grand Canyon National Park website:

“**Havasupai** means people of the blue-green waters. The spectacular waterfalls and isolated community within the Havasupai Indian Reservation attract thousands of visitors each year. The Havasupai are intimately connected to the water and the land. This blue- green water is sacred to the Havasupai. It flows not only across the land, but also through each tribal member. When you enter their land, you enter their home, their place of origin.”⁴²

The Havasupai have been expressive in opposition to development related to ADOT’s proposed airport expansion at Kotzin Ranch and at Ten X Ranch. On March 13, 2013, the Havasupai, through their attorney, wrote to the Forest Service:

“...The potential for impact to forest resources and to the resources of importance to the Havasupai is greater from the current plan to develop inholdings than the impacts would have been from Canyon Forest Village...The Havasupai Tribe requests that the Forest Service prepare an Environmental Impact Statement that includes examination of the impacts from the proposed development to Havasupai water resources and to the cultural resources in the area of their aboriginal territory...

Stilo Development has not yet identified a water supply for the proposed developments on Ten X and Kotzin. The Forest Service approved an alternative for the Canyon Forest Village development that did not impact the springs and seeps to which the Havasupai have rights and religious connections. The Forest Service owes the Tribe a trust responsibility to examine alternatives that provide this same level of protection...”⁴³

⁴¹ Correspondence, to, FAA Senior Advisor for Environmental Policy Lynne Pickard; from, David V. Uberuaga, Grand Canyon National Park Superintendent; copies to FAA Western-Pacific Region Airports Division Manager Mark McClardy, and ADOT Director John Halikowski; RE: Request to be a Cooperating Agency for any environmental analysis on proposed developments for the Grand Canyon National Park Airport, including water well drilling and extraction.; October 25, 2012.

⁴² Havasupai Indian Reservation, Grand Canyon National Park website, <http://www.nps.gov/grca/planyourvisit/havasupai.htm> ; November 21, 2013.

⁴³ Correspondence, to: Kaibab National Forest Tusayan Ranger District District Ranger Nicholas Larson; from: Margaret J. Vick, on behalf and at the request of the Havasupai Tribe; Re: Proposed developments by the Stilo Group in Tusayan Ranger District; March 13, 2013.

Earlier, on November 2, 2011, the Havasupai addressed the Tusayan Town Council directly in opposition to Stilo's proposed new development.⁴⁴ The Havasupai have been expressively worried about Tusayan area development's effect on their water since the first round of proposed Stilo development in 1998:⁴⁵

"Leaders of the Havasupai Indian tribe, who live in the Grand Canyon, worry openly that a major development would harm springs that flow in the canyon."⁴⁶

Grand Canyon National Park Airport expansion is intimately connected to a massive, new, nearby local commercial and the residential development referenced by the Havasupai.

"We are trying to create affordable housing opportunities for people who work and live here at the Grand Canyon."⁴⁷

Tusayan Mayor Greg Bryan, November 19, 2013

The developer of the new development is STILO DEVELOPMENT GROUP USA, LP ("Stilo"). The new development plans more than 3 million square feet of commercial space and up to approximately 2,200 new residential dwellings.⁴⁸

The new development, like the Airport's expansion, depends entirely on federal action. And like the Airport's expansion, the new development requires violation of federal reserved water rights for success. Instead of the Airport's need for FAA money, the new Stilo development requires new, greatly expanded right of way across U.S. Department of Agriculture Forest Service (USFS) land. Without new, greatly expanded USFS right of way, there will not be development of the approximately 2,200 new residential units. Without USFS right of way, there will not be housing opportunities to support Grand Canyon National Park Airport expansion.

ADOT has applied two times to FAA for federal money to comply with the scoping requirement of NEPA.⁴⁹ These two applications contain glaring and inexcusable inaccuracies.

⁴⁴ Minutes; Tusayan Town Council Regular Meeting; Tusayan, AZ; November 2, 2011.

⁴⁵ "Forest Service prefers smaller version of Canyon Forest Village," Michelle Rushlo, Prescott Daily Courier, July 3, 1998.; EXERTING LOCAL POWER OVER FEDERAL PROCESS: STAKEHOLDER NEGOTIATION PROCESS IN THE CANYON FOREST VILLAGE LAND EXCHANGE PROCESS 1992-2002; Dissertation submitted to the Faculty of the Graduate School of the University of Maryland, College Park, in partial fulfillment of the requirements for the degree of Doctor of Philosophy; Barbara Ann Kearney; 2006.

⁴⁶ "Forest Service prefers smaller version of Canyon Forest Village," Michelle Rushlo, Prescott Daily Courier, July 3, 1998.

⁴⁷ "How developers and business cash in on Grand Canyon overflights," John Dougherty, High Country News, June 12, 2011.; and, Correspondence, from, Tusayan Mayor Greg Bryan; to, Dr. Robin Silver; RE: WHY BITE THE HAND THAT FEEDS YOU?"; November 19, 2013.

⁴⁸ <http://tusayan-az.gov/general-plan/>

⁴⁹ Federal Assistance Application; Construction; Grand Canyon National Airport; Arizona Department of Transportation; Michael J. Halpin, Airport Manager; May 28, 2010.; and, Federal Assistance Application; Construction; Grand Canyon National Airport; Arizona Department of Transportation; Michael J. Halpin, Airport Manager; February 28, 2011.

On May 28, 2010, and on February 28, 2011, ADOT submitted essentially identical applications to FAA for “Federal Assistance...Construction.”⁵⁰ In PART IV PROGRAM NARRATIVE, both applications lie regarding the airport expansion’s reduction in the number of motor vehicles:

“**Benefits Anticipated:**...a reduction in the number of motor vehicles entering the Grand Canyon National Park.”⁵¹

ADOT fails to advise FAA that ADOT’s “Area Plan for Grand Canyon National Park Airport” says:

“...With the growth in visitors projected by the Park Service, the AADT [annual average daily traffic] on SR 64 could be expected to increase to 9,000 by the long term planning horizon. Airport-generated traffic was projected using Institute of Traffic Engineers (ITE) methodology. Based upon current and projected air tour, general aviation, and other air taxi activity, the airport would contribute 469 vehicles per day to this increase, growing from 792 to 1,261 vehicles per day. Destination airline traffic would generate 2,078 additional vehicles per day during the peak month. It was assumed that approximately half of the destination airline traffic would be newly generated airport traffic. Therefore, the AADT on the highway could increase to 10,000 by the long term planning horizon. ...According to the ITE [Institute of Traffic Engineers] model, traffic entering the airport can be expected to grow from 800 to 3,400 vehicles per day at the long term planning horizon...”

“...The destination terminal parking requirements can be expected to have a much higher rental car requirement, as many destination passengers will be looking for vehicles to tour the area. **Table 8K** presents forecast destination airline terminal vehicle parking needs. Total parking requirements are projected at 140 for the short term planning horizon, but growing to 637 by the long term horizon, 170 of which will be rental car ready/return spaces....”⁵²

In the ADOT applications’ section on “**AIRPORT IMPROVEMENT PROGRAM PROJECTS... STATEMENTS APPLICABLE TO THIS PROJECT,**” ADOT marks a “X” in the box for “**YES**” for:

“a. **INTEREST OF NEIGHBORING COMMUNITIES:** In formulating this project, consideration has been given to the interest of communities that are near the Grand Canyon National Park Airport...”

⁵⁰ Federal Assistance Construction Application, Airport Improvement Program for Grand Canyon National Park Airport; Michael J. Halpin, Arizona Department of Transportation; Grand Canyon National Park Airport Manager; May 28, 2010.; Federal Assistance Construction Application, Airport Improvement Program for Grand Canyon National Park Airport; Michael J. Halpin, Arizona Department of Transportation; Grand Canyon National Park Airport Manager; February 28, 2011.

⁵¹ Ibid.

⁵² TERMINAL AREA PLAN for GRAND CANYON NATIONAL PARK AIRPORT; Prepared for the ARIZONA DEPARTMENT OF TRANSPORTATION by Coffman Associates, Inc. in association with LEA -Architects, LLC and Z & H Engineering, Inc.; December 2009.

ADOT also marks a "X" in the box for "YES" for:

"d. **THE PROPOSED PROJECT IS CONSISTENT** with existing approved plans for the area surrounding the airport..."

The ADOT applications' section on "**AIRPORT IMPROVEMENT PROGRAM PROJECTS... STATEMENTS APPLICABLE TO THIS PROJECT**" includes the affirmation statement and signature:

"The above statements have been duly considered and are applicable to this project. (Provide comment for any statement not checked)...Michael J. Halpin, Grand Canyon National Park Airport, February 28, 2011."

The ADOT applications' section on "**AIRPORT IMPROVEMENT PROGRAM PROJECTS... STATEMENTS APPLICABLE TO THIS PROJECT**" includes the affirmation statement and signature:

NOTE, Where opposition is stated to an airport development project, whether expressly or by proposed revision, the following specific information concerning the opposition to the project must be furnished.

- a. Identification of the Federal, state, or local governmental agency, or the person or persons opposing the project;
- b. The nature and basis of opposition;
- c. Sponsor's plan to accommodate or otherwise satisfy the opposition;
- d. Whether an opportunity for a hearing was afforded, and if a hearing was held, an analysis of the facts developed at the hearing as they relate to the social, economic, and environmental aspects of the proposed project and its consistency with the goals and objectives of such urban planning as has been carried out by the community.
- e. If the opponents proposed any alternatives, what these alternatives were and the reason for nonacceptance;
- f. Sponsor's plans, if any, to minimize any adverse effects of the project;...and,
- h. Any other pertinent information which would be of assistance in determining whether to proceed with the project..."

Both the May 28, 2010, and the February 28, 2011, applications include the summary affirmation statement signed by ADOT Grand Canyon National Park Airport Manager Michael J. Halpin,

"TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION ARE TRUE AND CORRECT..."⁵³

⁵³ Ibid.

ADOT provides the FAA with no “information concerning the opposition to the project” as required.⁵⁴

With respect to ADOT’s affirmation that “[i]n formulating this project, consideration has been given to the interest of communities that are near the Grand Canyon National Park Airport,” ADOT fails to advise FAA of the facts that,

- (1) Grand Canyon National Park has no interest in allowing its federal reserved water rights to be stolen by the State of Arizona for its airport expansion and the interrelated, interdependent Tusayan-area developments,⁵⁵
- (2) the Havasupai have no interest in allowing its federal reserved water rights to be stolen by the State of Arizona for its airport expansion and the interrelated, interdependent Tusayan-area developments,⁵⁶
- (3) Grand Canyon National Park has no interest in allowing the State of Arizona to further burden the Park’s already overburdened infrastructure for the State’s airport expansion and its interrelated and interdependent Tusayan-area development,⁵⁷ and

⁵⁴ FAA December 22, 2011, Freedom of Information Act Request, Control No. 2012-002102WP response to Dr. Robin Silver, Center for Biological Diversity; RE: Each and every document in FAA’s possession, from January 1, 2011 to date, December 22, 2011, regarding Tusayan airport expansion. These documents should include all studies, all written correspondence, all email correspondence, all notes of telephone communications, all meeting notes, and any other forms of documentation regarding the Tusayan airport expansion.; February 3, 2012.; and FAA October 21, 2103, Freedom of Information Act Request 2014-000207 response to Dr. Robin Silver, Center for Biological Diversity; RE: Each and every document in FAA’s possession, from November 22, 2011 to date, October 21, 2013, regarding Grand Canyon Airport expansion and/or the drilling of a new Grand Canyon Airport groundwater well. These documents should include all studies, all written correspondence, all email correspondence, all notes of telephone communications, all meeting notes, and any other forms of documentation regarding the Grand Canyon Airport expansion.; November 21, 2013.

⁵⁵ Correspondence, to, ADOT Director John Halikowski; from, David V. Uberuaga, Grand Canyon National Park Superintendent; copies to FAA Western-Pacific Region Airports Division Manager Mark McClardy, and FAA Senior Advisor for Environmental Policy Lynne Pickard, RE: Request for Proposals, Solicitation Number, ADOT-13-00002140, for Well Feasibility Study and Site Evaluation for the Grand Canyon National Park Airport (GCN); October 25, 2012.; Correspondence, to, FAA Senior Advisor for Environmental Policy Lynne Pickard; from, David V. Uberuaga, Grand Canyon National Park Superintendent; copies to FAA Western-Pacific Region Airports Division Manager Mark McClardy, and ADOT Director John Halikowski; RE: Request to be a Cooperating Agency for any environmental analysis on proposed developments for the Grand Canyon National Park Airport, including water well drilling and extraction.; October 25, 2012.; Correspondence, to, ADOT Director John Halikowski; from, David V. Uberuaga, Grand Canyon National Park Superintendent; RE: comments submitted by the National Park Service (NPS), Grand Canyon National Park (GCNP), regarding the 2014-2018 Arizona Department of Transportation (ADOT) Tentative Five-Year Transportation Facilities Construction Program (ADOT 5 Year Program); May 17, 2013.

⁵⁶ Havasupai Indian Reservation, Grand Canyon National Park website, <http://www.nps.gov/grca/planyourvisit/havasupai.htm> ; November 21, 2013.; Havasupai Legends: Religion and Mythology of the Havasupai Indians of the Grand Canyon, Robert C. Euler and Carma Lee Smithson (January 9, 2002).The Sacred Oral Tradition of the Havasupai: As Retold by Euler; Edited by Frank Tikalsky (2011).; Project’s Impact on Water Worries Tribes,” Michelle Rushlo, AP_Los Angeles Times, September 14, 1997.; “Water concerns worry tribes,” Havasu News Herald, September 16, 1997.; “The Grand Canyon struggles with reality,” Peter Chilson, High Country News, March 2, 1998.; “Opposition to New Development Aims to Protect Natural Water,” Anne Minard, Indian Country Today, April 25, 2012.; “Italian group’s upscale proposal raises water worries,” Anne Minard, Four Corners Free Press; June 1, 2012.

⁵⁷ “Grand Canyon airport expansion planned,” Felicia Fonseca, Associated Press, November 1, 2011.; Correspondence, to, ADOT Director John Halikowski; from, David V. Uberuaga, Grand Canyon National Park Superintendent; RE: comments submitted by the National Park Service (NPS), Grand Canyon National Park (GCNP), regarding the 2014-2018 Arizona Department of Transportation (ADOT) Tentative Five-Year Transportation Facilities Construction Program (ADOT 5 Year Program); May 17, 2013.

- (4) the City of Flagstaff and the Town of Williams and their business communities have no interest in losing their destination tourists to the State of Arizona for its airport expansion and to the Town of Tusayan.⁵⁸

The City of Flagstaff, the Town of Williams, Northern Arizona Council of Governments, and the Williams-Grand Canyon Chamber of Commerce all appealed Stilo's last attempt at Tusayan area development in 1999.⁵⁹ Both Flagstaff and Williams successfully litigated their appeal in federal court.⁶⁰

Business owners in Flagstaff have been particularly hostile towards the State of Arizona's desire to expand its Grand Canyon National Park Airport. On July 31, 2012, KNAU reports in "Grand Canyon airport expansion could increase jet service, but area businesses wary,"

"...The Arizona Department of Transportation wants to see more business at the Grand Canyon National Park Airport.

They're planning a multi-million dollar expansion that includes a new, larger terminal that will be able to handle commercial jets.

And that expansion has some business owners in other parts of Arizona worried that Grand Canyon tourists – and their money – will fly right over the rest of Northern Arizona...

This is the only airport in Arizona operated by the state, and it's been running in the red for more than a decade.

Last year it lost more than \$400,000...

But Nichols [ADOT Deputy Director for Business Operations John Nichols] says a new \$13 million terminal could attract commercial carriers.

And he says those carriers would bring in at least 57,000 new passengers on large jets.

And that, he hopes, would make the airport economically viable.

The funds would come from the Federal Aviation Administration and the state...

⁵⁸ "Unraveling a Grand dilemma," Mike Padgett, Phoenix Business Journal; August 3, 1998.; "CFV appeals draw return fire," Gary Ghioto, Arizona Daily Sun, September 29, 1999.; "Gateway to the Grand Canyon," KNAU's Living on Earth, October 15, 1999.; Destination Flagstaff: How Important is the Flagstaff-Area Tourism Cluster?; Rick Heffermon, Kathy Andereck, Tom Rex, and Christine Vogt; Morrison Institute for Public Policy, School of Public Affairs / College of Public Programs, Arizona State University; January 2000.; ; "Federal Judge overturns approval for Canyon Forest Village," AP_Prescott Daily Courier, September 21, 2001.; EXERTING LOCAL POWER OVER FEDERAL PROCESS: STAKEHOLDER NEGOTIATION PROCESS IN THE CANYON FOREST VILLAGE LAND EXCHANGE PROCESS 1992-2002; Dissertation submitted to the Faculty of the Graduate School of the University of Maryland, College Park, in partial fulfillment of the requirements for the degree of Doctor of Philosophy; Barbara Ann Kearney; 2006.; "Grand Canyon airport expansion could increase jet service, but area businesses wary," KNAU, July 31, 2012.; "Proposed Grand Canyon Airport Expansion," Flagstaff Business News, August 6, 2012.

⁵⁹ August 3, 1998.; "CFV appeals draw return fire," Gary Ghioto, Arizona Daily Sun, September 29, 1999.; "Gateway to the Grand Canyon," KNAU's Living on Earth, October 15, 1999.; "Federal Judge overturns approval for Canyon Forest Village," AP_Prescott Daily Courier, September 21, 2001.; EXERTING LOCAL POWER OVER FEDERAL PROCESS: STAKEHOLDER NEGOTIATION PROCESS IN THE CANYON FOREST VILLAGE LAND EXCHANGE PROCESS 1992-2002; Dissertation submitted to the Faculty of the Graduate School of the University of Maryland, College Park, in partial fulfillment of the requirements for the degree of Doctor of Philosophy; Barbara Ann Kearney; 2006

⁶⁰ "Federal Judge overturns approval for Canyon Forest Village," AP_Prescott Daily Courier, September 21, 2001.

But Patel [Ash Patel, owner of two Flagstaff hotels] says the only businesses that will benefit from the airport plan are those owned by Stilo Development Group.

That's the Italian firm that plans to build hotels, resorts and housing in the tiny community of Tusayan, just up the road from the airport.

"You don't expand an airport that has been losing money to benefit one developer. This is government at its worst," Patel says..."

On August 6, 2012, the Flagstaff Business News reports in "Proposed Grand Canyon Airport Expansion,"

"...opponents say the plan could kill businesses in Northern Arizona that depend on Grand Canyon tourism dollars..."

...Patel [Ash Patel, Flagstaff hotel owner] says the only businesses that will benefit from the airport plan are those owned by Stilo Development Group, the Italian firm that plans to build hotels, resorts and housing on the southern edge of the Grand Canyon in the tiny community of Tusayan.

"Why would ADOT at this time, in this economy, decide to give money to an airport that's losing money?" he asked. "You have one developer being given preferential treatment by taxpayer dollars that will take away significant economic prosperity from the surrounding communities..."

In a letter to ADOT, the region's bed and breakfast association implored state officials to instead spend transportation dollars on year-round road maintenance of Highway 180 and on improvements at Flagstaff's airport..."

With respect to ADOT's affirmation that "the proposed project is consistent with existing approved plans for the area surrounding the airport," ADOT fails to notify FAA of the facts that the State of Arizona's plan for its airport expansion is not consistent with the U.S. Congress' approved plan for the Grand Canyon National Park under the National Parks Service Act of 1916.⁶¹ Congress' plan for the Park states,

"...shall promote and regulate the use of the Federal areas known as national parks, monuments, and reservations by such means and measures as conform to the fundamental purpose of the said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations. "⁶²

Congress' plan for the Park precludes allowing the Park's federal reserved water rights to be stolen by the State of Arizona for its airport expansion or to be stolen by developers for the airport's interrelated, interdependent Tusayan-area developments. Congress' plan for Grand

⁶¹ National Park Service Act of 1916, 16 U.S.C. §1 (1976).

⁶² Ibid.

Canyon National Park is not capable of accommodating the State of Arizona's plan to further burden the Park's already overburdened infrastructure for the State's airport expansion.

FAA funding of ADOT's Grand Canyon National Park Airport's expansion activities should have already triggered NEPA compliance studies. NEPA mandates that all federal agencies take a "hard look" at the environmental implications of their actions or non-actions.⁶³ But the actions or non-actions must involve a "major federal action."⁶⁴

The court determines whether or not a non-federal project is a "major federal action" by considering three factors; (1) whether the project is federal or non-federal, (2) whether the project receives significant federal funding, and (3) when the project is undertaken by a non-federal party, whether the federal agency must undertake "affirmative conduct" before the non-federal party may act.⁶⁵ A non-federal project is generally considered a "major federal action" if it cannot begin or continue without prior approval of a federal agency.⁶⁶ The use of federal funds for the project is sufficient to bring it under NEPA if (1) the federal financial commitment is clear,⁶⁷ (2) if the federal action "cannot begin or continue without prior approval by a federal agency and the agency possesses authority to exercise discretion over the outcome,"⁶⁸ or (3) if an agency's action "may" have a significant impact on the environment.⁶⁹

The U.S. Department of Transportation and the FAA "IMPLEMENTING INSTRUCTIONS FOR AIRPORT ACTIONS, Order 5050.4B defines "federal action" as,

"...For ARP [FAA's Office of Airports], a Federal action may include one or more of the following: ...(1) Conditional, unconditional, or mixed approval of Federal funding for airport planning and development projects, including separate funding of plans and specifications for those projects..."⁷⁰

NEPA requires federal agencies to evaluate the cumulative impacts of their actions in concert with "other past, present, and reasonably foreseeable future actions. . . ."⁷¹ Inclusion of "foreseeable action" in any NEPA evaluation is compulsory for FAA's overdue NEPA studies concerning FAA funding of the State of Arizona's plan to expand its Grand Canyon National Park Airport.

⁶³ Kleppe v. Sierra Club, 427 U.S. 390,410 n.21 (1976).

⁶⁴ Macht v. Skinner, 916 F.2d 13, 16 n.4 (D.C. Cir. 1990).

⁶⁵ Mineral Policy Center v. Norton, 292 F.Supp.2d 30, 54-55 (D.D.C. 2003), citing Macht v. Skinner, 916 F.2d 13 (D.C. Cir. 1990).

⁶⁶ Maryland Conservation Council. Inc. v. Gilchrist, 808 F.2d at 1042, citing Biderman v. Morton, 497 F.2d 1141, 1147 (2nd Cir. 1974); and Foundation on Economic Trends v. Heckler, 756 F.2d 143, 155 (D.C. Cir. 1985).

⁶⁷ NEPA LAW AND LITIGATION, Daniel R. Mandelker; Section 8:20 (2nd ed. 2004).

⁶⁸ Sugarloaf Citizens Association v. Federal Energy Regulatory Commission, 959 F.2d 508,513-14 (4th Cir. 1992).

⁶⁹ National Parks and Conservation Association v. Babbitt, 241 F.3d 722 (9th Cir. 2001).

⁷⁰ U.S. DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) IMPLEMENTING INSTRUCTIONS FOR AIRPORT ACTIONS, ORDER 5050.4B; http://www.faa.gov/airports/resources/publications/orders/environmental_5050_4/; April 28, 2006; CHAPTER 1. ORDER OBJECTIVES AND DEFINITIONS...9. DEFINITIONS:... g. Federal action.

⁷¹ 40 C.F.R. § 1508.7.

The U.S. Department of Transportation and the FAA “IMPLEMENTING INSTRUCTIONS FOR AIRPORT ACTIONS,” Order 5050.4B defines “reasonably foreseeable action” as,

“...[a]n action on or off-airport that a proponent would likely complete and that has been developed with enough specificity to provide meaningful information to a decision maker and the interested public.”⁷²

The FAA “IMPLEMENTING INSTRUCTIONS FOR AIRPORT ACTIONS,” Order 5050.4B further defines “reasonably foreseeable action” as,

“...Off-airport action....The proponent has committed to completing the proposed action. As a result, the action is or will be the subject of a NEPA document, or a Federal, State, local, or Tribal government permit application or approval and would occur within the same time frames as those evaluated for the proposed airport action.

... Would affect all, some, or one of the environmental resources that the proposed action would affect. ... Would occur within the same time frames as the time frames analyzed for the proposed airport action....⁷³

Grand Canyon National Park Airport expansion is intimately interrelated to and interdependent with the Stilo development at Kotzin Ranch and at Ten X Ranch.⁷⁴ Stilo development at Kotzin Ranch and at Ten X Ranch is not possible without issuance of federal right of way from the Forest Service.⁷⁵ Evaluation of any issuance of federal right of way from

⁷² U.S. DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) IMPLEMENTING INSTRUCTIONS FOR AIRPORT ACTIONS, ORDER 5050.4B; ; http://www.faa.gov/airports/resources/publications/orders/environmental_5050_4/; April 28, 2006; CHAPTER 1. ORDER OBJECTIVES AND DEFINITIONS...9. DEFINITIONS:...q. Reasonably foreseeable action.

⁷³ Ibid.

⁷⁴ “Canyon plan draws praise, concerns,” Prescott Courier, December 11, 1990.; Tusayan Area Plan & Design Review Overlay, An Amendment to the Coconino County Comprehensive Plan; Area Plan Approved by the Coconino County Board of Supervisors June 19, 1995, amended May 5, 1997.; “County supervisors to decide fate of new housing in Tusayan,” Western Times, November 10, 2009.; “County Board of Supervisors Further Delay Tusayan Housing Decision,” Western Times, November 20, 2009.; Montgomery & Associates, Inc., 1998. Supplemental Assessment of the Hydrologic Conditions and Potential Effects of Proposed Ground Water Withdrawal, Coconino Plateau Groundwater Sub-Basin, Coconino County, Arizona. 85 p., in Appendix of the Final Environmental Impact Statement for Tusayan Growth, Kaibab National Forest.; Kessler, 2002. Grand Canyon Springs and the Redwall-Muav Aquifer: Comparison of Geologic Framework and Groundwater Flow Models, Northern Arizona, December 2002.; Bills, D.J., Flynn, M.E., and Monroe, S.A., 2007, Hydrogeology of the Coconino Plateau and adjacent areas, Coconino and Yavapai Counties, Arizona: U.S. Geological Survey Scientific Investigations Report 2005–5222, 101 p., 4 plates.; TOWN OF TUSAYAN ZONE CHANGE APPLICATION; Stilo Development Group USP, LP; RE: Zone change to allow a mixed-use development with residential housing, education, civic, retail and commercial facilities; 8/21/2011.; KOTZIN RANCH APPLICANT’S NARRATIVE REPORT; PLANNED COMMUNITY DISTRICT ZONING SUBMITTAL; TOWN OF TUSAYAN, ARIZONA; ORIGINAL SUBMITTAL: AUGUST 1, 2011; RESUBMITTED: SEPTEMBER 26, 2011.; PLANNED COMMUNITY DISTRICT ZONING SUBMITTALTOWN OF TUSAYAN, ARIZONA; ORDINANCE NO. 2011-11-02-04; approved November 2, 2011.; Draft TOWN OF TUSAYAN GENERAL PLAN – 2023; Adopted by the Mayor and Council of the Town of Tusayan on _____, 2013; web accessed October 20, 2013.; APPLICATION FOR TRANSPORTATION AND UTILITY SYSTEMS AND FACILITIES ON FEDERAL LANDS; Stilo Development Group USA, LP; January 4, 2013.

⁷⁵ APPLICATION FOR TRANSPORTATION AND UTILITY SYSTEMS AND FACILITIES ON FEDERAL LANDS; Stilo Development Group USA, LP; January 4, 2013.

the Forest Service without full and open NEPA studies will not be possible as the effects of the action, both direct and indirect, will be devastating to the springs and seeps of Grand Canyon National Park and the Havasupai Indian Reservation.⁷⁶ Failure to do full NEPA studies violates the regulations for implementing NEPA prepared by the Council on Environmental Quality which include evaluation of cumulative, indirect, and direct effects.⁷⁷

For “indirect effects,” 40 CFR 1508.8, states,

“Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.”

The FAA “IMPLEMENTING INSTRUCTIONS FOR AIRPORT ACTIONS,” CHAPTER 3. “AGENCY AND TRIBAL COORDINATION” of Order 5050.4B states,

“...303. GOVERNMENT-TO-GOVERNMENT RELATIONS WITH NATIVE AMERICAN TRIBAL GOVERNMENTS. Executive Order 13175, *Consultation and Coordination With Indian Tribal Governments*, dated November 6, 2000, provides instructions to *Federal* agencies about relations with Federally-recognized Native Americans (i.e., Alaska Natives and American Indians). The Executive Order requires FAA, to the extent practicable and allowable by law, to consult Tribal governments before taking actions that could significantly or uniquely affect them. In addition, FAA must assure FAA policies, programs, and activities properly address a Tribe’s concerns regarding its rights or potential impacts on tribal trust resources.

a. Conducting these consultations. The responsible FAA official must conduct open and candid consultation in a manner respecting Tribal sovereignty. FAA Order 1210.20, *American Indian and Alaska Native Tribal Consultation Policy and Procedures*, dated January 28, 2004, provides specific guidance for FAA personnel on how to conduct those government-to-government consultations for FAA activities.

(1) The responsible FAA official should begin the consultation as soon as FAA knows enough about the proposed action to present a list of potential

⁷⁶ Montgomery & Associates, Inc., 1998. Supplemental Assessment of the Hydrologic Conditions and Potential Effects of Proposed Ground Water Withdrawal, Coconino Plateau Groundwater Sub-Basin, Coconino County, Arizona. 85 p., in Appendix of the Final Environmental Impact Statement for Tusayan Growth, Kaibab National Forest.; Kessler, 2002. Grand Canyon Springs and the Redwall-Muav Aquifer: Comparison of Geologic Framework and Groundwater Flow Models, Northern Arizona, December 2002.; Bills, D.J., Flynn, M.E., and Monroe, S.A., 2007, Hydrogeology of the Coconino Plateau and adjacent areas, Coconino and Yavapai Counties, Arizona: U.S. Geological Survey Scientific Investigations Report 2005–5222, 101 p., 4 plates.; Correspondence, to USFS Kaibab National Forest Supervisor Michael Williams; from David V. Uberuaga, Grand Canyon National Park Superintendent; RE: [F]ormal request to be included in all environmental analysis planned for lands administered by the U.S. Forest Service relative to any development proposed by Stilo Group USA, LP (Stilo), the Town of Tusayan, Tusayan Ventures, Inc. (TVI), Arizona Department of Transportation (ADOT), or the Federal Aviation Administration (FAA). Grand Canyon National Park has serious concerns about any project that poses a potential threat to water and other resources within the park.; December 3, 2012.; Correspondence, to ADOT Director John Halikowski; from, David V. Uberuaga, Grand Canyon National Park Superintendent; RE: comments submitted by the National Park Service (NPS), Grand Canyon National Park (GCNP), regarding the 2014-2018 Arizona Department of Transportation (ADOT) Tentative Five-Year Transportation Facilities Construction Program (ADOT 5 Year Program); May 17, 2013.

⁷⁷ 40 CFR Chapter V Parts 1500 *et. seq.*

environmental issues to the Federally-recognized Tribe. This ensures FAA knows of Tribal concerns early in project development when the greatest range of alternatives exists. It also allows the Tribe to present its concerns and information in a timely manner to ensure FAA fully considers issues of tribal importance...⁷⁸

No consultation pursuant to FAA Order 1210.20 has been undertaken with the Havasupai or any other Native American group for Grand Canyon National Park Airport and its interrelated and interdependent Tusayan developments.⁷⁹

FAA's ENVIRONMENTAL DESK REFERENCE FOR AIRPORT ACTIONS⁸⁰ includes nearly identical instructions for FAA employees with respect to NEPA as does FAA's NEPA IMPLEMENTING INSTRUCTIONS FOR AIRPORT ACTIONS (ORDER 5050.4B). The Environmental Desk Reference does add instructions pertinent to the Grand Canyon National Park Airport expansion for "Biotic Resources" (Chapter 2), National Historic Preservation Act consultations (Chapter 7), Environmental Justice (Chapter 10), and Wetlands (Chapter 21).⁸¹

The FAA's funding of the Airport Improvement Program via which ADOT's Grand Canyon National Park Airport expansion activities are being funded is an "undertaking" as defined in the National Historic Preservation Act NHPA and its implementing regulations.⁸² The contemplated decision of the USFS regarding the proposed right of way and/or the Special Use Permit for Stilo's Kotzin Ranch and Ten X Ranch developments and the interrelated and interdependent expansion of the airport is also an "undertaking" as defined in the NHPA and its implementing regulations.⁸³

No Area of Potential Effect ("APE") has been identified pursuant to NHPA, 36 CFR 800.16 [Definitions], 36 CFR 800.4 [Identification of Historic Properties] and 36 CFR 60.4 [Criteria for Evaluation] for Grand Canyon National Park Airport expansion and its interrelated, and interdependent federal actions (USFS granting of right of way for Stilo's Ten X and Kotzin

⁷⁸ U.S. DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) IMPLEMENTING INSTRUCTIONS FOR AIRPORT ACTIONS, ORDER 5050.4B; ; http://www.faa.gov/airports/resources/publications/orders/environmental_5050_4/; April 28, 2006; CHAPTER 3. AGENCY AND TRIBAL COORDINATION.

⁷⁹ FAA December 22, 2011, Freedom of Information Act Request, Control No. 2012-002102WP response to Dr. Robin Silver, Center for Biological Diversity; RE: Each and every document in FAA's possession, from January 1, 2011 to date, December 22, 2011, regarding Tusayan airport expansion. These documents should include all studies, all written correspondence, all email correspondence, all notes of telephone communications, all meeting notes, and any other forms of documentation regarding the Tusayan airport expansion.; February 3, 2012.; and FAA October 21, 2103, Freedom of Information Act Request 2014-000207 response to Dr. Robin Silver, Center for Biological Diversity; RE: Each and every document in FAA's possession, from November 22, 2011 to date, October 21, 2013, regarding Grand Canyon Airport expansion and/or the drilling of a new Grand Canyon Airport groundwater well.; November 21, 2013.

⁸⁰ ENVIRONMENTAL DESK REFERENCE FOR AIRPORT ACTIONS; FEDERAL AVIATION ADMINISTRATION OFFICE OF AIRPORTS OFFICE OF AIRPORT PLANNING AND PROGRAMMING AIRPORTS PLANNING AND ENVIRONMENTAL DIVISION, APP-400; http://www.faa.gov/airports/environmental/environmental_desk_ref/; October 2007.

⁸¹ Ibid.

⁸² NHPA Sec. 301(7); 16 U.S.C. 470w(7); 36 C.F.R 800.16(y).

⁸³ Ibid.

developments).⁸⁴ Pursuant with 36 CFR 800.4(a)(1), Area of Potential Effect is defined as the geographic area or areas within which an undertaking may directly or indirectly cause changes in the character or use of historic properties, if any such properties exist. The Area of Potential Effect for Grand Canyon National Park Airport expansion and its interrelated, and inter-dependent federal actions (USFS granting of right of way for Stilo's Ten X and Kotzin developments) includes, at the very least, Havasupai Falls,⁸⁵ and the Bright Angel Trail for which Indian Gardens' water is a critical component.

Havasupai Falls has not been yet nominated for the National Register of Historic Places, but work has begun. With Havasupai Falls central sacred and cultural importance for the Havasupai, and in particular, with the Falls contribution to the human history of the Grand Canyon, Havasupai Falls are certainly a traditional cultural property in the truest sense. Havasupai Falls qualify for the National Registry under Criteria "A." ***

Grand Canyon National Park's entire 7.8 mile Bright Angel Trail system from Kolb Studio on the South Rim to the Colorado River including portions of Indian Garden has been nominated for the National Register of Historic Places, but has not yet been approved or listed; however, Arizona State Historic Preservation Office made a Determination of Eligibility for the entire trail in 1997.⁸⁶

FAA's ENVIRONMENTAL DESK REFERENCE FOR AIRPORT ACTIONS says, Chapter 14 "Historic Properties," says,

1. INTRODUCTION AND DEFINITIONS...a. General. This chapter summarizes the requirements of Section 106 of the National Historic Preservation Act (NHPA) for ease of reference...

c. Consultation. Section 106 of the NHPA, as implemented through 36 CFR Part 800, is intended to require Federal agencies to consider the effects of their undertakings on historic properties. In doing so, FAA must consult with the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) if one exists...The regulations protecting historic and cultural properties also require consultation and information exchanges with interested parties. As a result, the identification of historic resources, analysis of potential effects, and consultation is often a "critical path" element in managing the environmental review project. Starting consultation early in

⁸⁴ FAA December 22, 2011, Freedom of Information Act Request, Control No. 2012-002102WP response to Dr. Robin Silver, Center for Biological Diversity; RE: Each and every document in FAA's possession, from January 1, 2011 to date, December 22, 2011, regarding Tusayan airport expansion. These documents should include all studies, all written correspondence, all email correspondence, all notes of telephone communications, all meeting notes, and any other forms of documentation regarding the Tusayan airport expansion.; February 3, 2012.; and FAA October 21, 2103, Freedom of Information Act Request 2014-000207 response to Dr. Robin Silver, Center for Biological Diversity; RE: Each and every document in FAA's possession, from November 22, 2011 to date, October 21, 2013, regarding Grand Canyon Airport expansion and/or the drilling of a new Grand Canyon Airport groundwater well.; November 21, 2013.

⁸⁵ Havasupai Indian Reservation, Grand Canyon National Park website, <http://www.nps.gov/grca/planyourvisit/havasupai.htm> ; November 21, 2013.

⁸⁶ Indian Garden, Grand Canyon National Park; Grand Canyon, Arizona Cultural Landscape Report; John Milner Associates Charlottesville, Virginia; Contract No. 1443-C2000020300; June 2005.; National Park Service Cultural Landscapes Inventory Bright Angel Trail Corridor Grand Canyon National Park; Arizona State University 2010.

the environmental review process is a best management practice for an airport action that may affect historic properties.

d. Undertaking. This is a project or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency (36 CFR Section 800.16(y)). An undertaking is an activity that:

- (1) the agency carries out;
- (2) is carried out by or on behalf of a Federal agency;
- (3) is carried out with Federal assistance; or
- (4) requires a Federal permit, license, or approval...

...Traditional Cultural Properties (TCPs). TCPs are important to a community's history, cultural practices, and beliefs and help maintain the continual cultural identity of Native American tribes, Hawaiian organizations, and other traditional communities. TCPs are normally, but not always, eligible for inclusion in the NRHP. NPS Bulletin 38, *Identifying Traditional Cultural Places*, provides guidance on NRHP criteria to determine if a TCP qualifies as a Section 106-protected TCP. FAA must consider an undertaking's effects on NRHP-eligible or listed TCPs.”⁸⁷

No NHPA compliance actions have taken place with respect to Grand Canyon National Park Airport expansion and its interrelated and interdependent federal actions (i.e., USFS right of way for Kotzin Ranch and Ten X Ranch).⁸⁸ To the extent that FAA funding and any other related undertakings to date have been completed in violation of the NHPA and its implementing regulations, the FAA and any involved state and local agencies have also violated Section 110 of NHPA, including but not limited to Section 110(k) (16 U.S.C. 470h-2). Violation of Section 110 of NHPA jeopardizes eligibility for continued and future federal funding.

⁸⁷ ENVIRONMENTAL DESK REFERENCE FOR AIRPORT ACTIONS; FEDERAL AVIATION ADMINISTRATION OFFICE OF AIRPORTS OFFICE OF AIRPORT PLANNING AND PROGRAMMING AIRPORTS PLANNING AND ENVIRONMENTAL DIVISION, APP-400; OCTOBER 2007; http://www.faa.gov/airports/environmental/environmental_desk_ref/; CHAPTER 14. HISTORIC PROPERTIES.

⁸⁸ FAA December 22, 2011, Freedom of Information Act Request, Control No. 2012-002102WP response to Dr. Robin Silver, Center for Biological Diversity; RE: Each and every document in FAA's possession, from January 1, 2011 to date, December 22, 2011, regarding Tusayan airport expansion. These documents should include all studies, all written correspondence, all email correspondence, all notes of telephone communications, all meeting notes, and any other forms of documentation regarding the Tusayan airport expansion.; February 3, 2012.; and FAA October 21, 2103, Freedom of Information Act Request 2014-000207 response to Dr. Robin Silver, Center for Biological Diversity; RE: Each and every document in FAA's possession, from November 22, 2011 to date, October 21, 2013, regarding Grand Canyon Airport expansion and/or the drilling of a new Grand Canyon Airport groundwater well. These documents should include all studies, all written correspondence, all email correspondence, all notes of telephone communications, all meeting notes, and any other forms of documentation regarding the Grand Canyon Airport expansion.; November 21, 2013.; USFS June 21, 2013, Freedom of Information Act Request, Case No. 2013-FS-R3-04116-F response to Dr. Robin Silver, Center for Biological Diversity; RE: Each and every document in USFS's possession, from December 23, 2011 to date, June 21, 2013, regarding Tusayan development and/or the use of Forest Service property to accommodate and/or facilitate development in the Tusayan area.”; August 5, 2013.

CONCLUSION

This correspondence serves as a CEASE and DESIST NOTICE to FAA, and its partner, ADOT, to stop all spending of federal funds related to Grand Canyon National Park Airport-expansion until (a) the requirements of NEPA and NHPA are obeyed, and (b) until your harm to Grand Canyon National Park and your efforts to steal federal reserved water from the Park and the Havasupai is stopped.

Please notify us of your intentions within 10 days (by close of business, December 19, 2013). If you have any further questions about this request, please contact Dr. Robin Silver, by mail at Center for Biological Diversity, PO Box 1178, Flagstaff, AZ 86002; by mail at (602) 799-3275; or by email at rsilver@biologicaldiversity.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Robin Silver" with a stylized flourish at the end.

Robin Silver, M.D.
Co-Founder and Board Member