



April 1, 2015

Michael P. Huerta
Federal Aviation Administrator
Federal Aviation Administration, et. al.
800 Independence Avenue S.W.
Washington, DC 20591

Complaint on New NextGen Multiplex Changes Failure to Comply with Regulations and Its Effects

Dear Mr. Huerta:

This formal complaint is generated to encompass the totality of airports in the United States systemically affected by the new NextGen Metroplex changes implemented by the Federal Aviation Administration (FAA) et. al., and is more specifically intrinsic to **Phoenix Sky Harbor Airport (PHX)** effectuated September 18, 2014 is discussed as the focal point of aggrieved interests formally *alleged* herein.

The FAA proceeded with the adoption and implementation of its new NextGen Metroplex guidelines without providing the required due diligence, exercise of best practices, affording agency transparency and involving the various stakeholders, i.e., States, Counties, Cities, the public and Indian communities; and have deprived those as well as their citizens of the right to be notified and to participate in the process. The new guidelines were tested and implemented at **PHX** prior to the FAA's Report to Congress of October 17, 2014 ¹ and vastly exaggerated their limited authority without Congress' final approval of FAA Draft Order 1050.1F which is not yet in effect as law.² The FFA failed to adhere to the current policy and law under US DOT 5610.1C ³, FAA Order 5050.4B ⁴, current FAA Order 1050.1E⁵ and the Council on Environmental Quality guidelines as to NEPA.⁶

Earth Month Network, Inc., (EMN) takes the stand of which to vehemently object to and protest the FAA's et.al., acts and omissions that were done knowingly, intentional, willfully, that

¹ NextGen Priorities Joint Implementation Plan, Report to Congress of October 17, 2014

² FAA Draft Order 1050.1F

³ US Department of Transportation Procedures For Considering Environmental Impacts, August 18, 1979

⁴ FAA Order 5050.4B, April 28, 2006

⁵ Federal Register / Vol. 64, No. 197 / Wednesday, October 13, 1999 / Notices/ Environmental Impacts: Policies and Procedures for FAA 1050.1E.

⁶ Council on Environmental Quality Executive Office of The President, 40 CFR Parts 1500-1580 (2005)

were motivated, planned and calculated to accelerate their progress for personal gain with a calloused disregard for the law and more importantly the rights of individuals, classes and the City of Phoenix and sounding areas; and to cause purposeful harm to humans, as well as the Natural, Physical, Cultural, Social and Economic environment, as a deliberate detrition of Sustainability. ⁷ The City of Phoenix's Protest is included herein by reference and attached hereto by citation and made a part hereof. ⁸

The FAA et. al. took negative action without lawful authority causing irreparable harm, and continues to cause irreversible harm, and said proceeding as such are violative of individual rights (private) and class (public) rights; and of laws and codes that include but are not limited to the following, to wit:

- 1.) Preamble to the Constitution for the united States 1787⁹
- 2.) Fourteenth Amendment to the Constitution for the united States Sec. 1 Cl. 2. ¹⁰
- 3.) FAA Modernization And Reform Act 2012 - Amending Title 49 U.S.C. Subtitle VII¹¹ by enactment of PL-112-95¹²
 - a. TITLE 1 AUTHORIZATIONS; Subtitle A- Funding FAA Programs, Sec. 101 Airport planning and development and noise compatibility planning and programs. Title 49 U.S.C. §48103¹³ and Title 26 U.S.C. §9502 ¹⁴
 - b. TITLE II—NEXTGEN AIR TRANSPORTATION SYSTEM AND AIR TRAFFIC CONTROL MODERNIZATION; Sec. 202 Nextgen Demonstrations and Concepts, Title 49 U.S.C. §48101(a) at (4) Next Generation Transportation System— Arrivals/Departures at High Density Airports, and (7) Next Generation Transportation System—Safety, Security, and Environment.
 - c. Sec 213. Acceleration of NextGen Technologies
(C) Implementation Plan For OEP Airports.
(iv) expedited environmental review procedures.
- 4.) CONGRESSIONAL RECORD OF PRPPOSED FAA ORDER PART 1050.1F - ENVIRONMENTAL IMPACT POLICIES AND PROCEDURES. ¹⁵
- 5.) FAA ENVIRONMENTAL DESK REFERENCE FOR AIRPORT ACTIONS 1979¹⁶

⁷ The 10-R's of Sustainability, EMN 2014

⁸ City of Phoenix Protest, February 17, 2015

⁹ Cornell University Law School, Preamble to the Constitution for the united States 1787

¹⁰ Cornell University Law School, Fourteenth Amendment, Sec.1 Cl.2

¹¹ Title 49 U.S.C Subtitle VII –Aviation

¹² FAA Modernization And Reform Act 2012

¹³ Title 49 U.S.C. §48103

¹⁴ Title 26 U.S.C. §9502 of the Internal Revenue Code

¹⁵ Federal Register / Vol. 78, No. 157 / Wednesday, August 14, 2013/ Notices: Proposed Change of 1050.1E

¹⁶ FAA Environmental Desk Reference, October 2007

- 6.) NATIONAL ENVIRONMENTAL POLICY ACT 1969 (NEPA) 40 U.S.C. Ch. V. Section §1500 -§1508¹⁷.
- 7.) ENDANGERED SPECIES ACT of 1973 (ESA) Title 16 U.S.C. §1531- Congressional findings and declaration of purposes and policy¹⁸
 - a. Title 16 U.S.C. §1533- Determination of endangered species and threatened species
 - b. Title 16 U.S.C. §1535- Cooperation with States
 - c. Title 16 U.S.C. §1536- Interagency cooperation
 - d. Title 16 U.S.C. §1537(a) Convention implementation
 - e. Title 16 U.S.C. §1538- Prohibited acts
- 8.) ENVIRONMENTAL JUSTICE ACT of 2007¹⁹
- 9.) SPACE PRESERVATION ACT of 2001, reaffirms the policy expressed in section 102(a) of the National Aeronautics and Space Act of 1958, (42 U.S.C. 2451(a))²⁰
- 10.) 14 CFR Part 150 AIRPORT NOISE AND COMPATABILITY²¹
 - a. Subpart A - General Provisions Part 150.1-150.13
 - b. Subpart B - Development of Noise Exposure Maps and Noise Compatibility Programs Part 150.21 -150.23
 - c. Subpart C - Evaluations and Determinations of Noises Compatibility Programs Part 150.31 -150.35
- 11.) NOISE CONTROL ACT of 1972, 42 U.S.C. §4901²²
- 12.) QUIET COMMUNITIES ACT of 1978, PL 95-609, 92 Stat. 3079²³ Amended 2005²⁴
- 13.) CITY OF PHOENIX ARIZONA NOISE ORDINANCE²⁵
 - a. Article I Sec. 23.11- Nuisances (A)
 - b. Article I Sec. 23.12- Creation of unreasonably loud and disturbing noise prohibited.
 - c. Article I Sec. 23.13- Noises detrimental to life and health, or public peace and welfare prohibited.
 - d. Articles I Sec.23.14- Enumeration of loud, disturbing and unnecessary noises; enumeration not exclusive.
- 14.) ARIZONA REVISED STATUTE – DISORDERLY CONDUCT ARS §13-2904²⁶

¹⁷ National Environmental Policy Act 1969, Ch. V. Section §1500 -§1508

¹⁸ Endangered Species Act of 1973

¹⁹ Environmental Justice Act of 2007

²⁰ Space Preservation Act of October 2, 2001 107th Congress 1st Session HR 2977

²¹ 14 CFR Part 150 Airport Noise and Compatibility

²² Noise Control Act of 1972, 42 U.S.C §4901

²³ Quiet Communities Act 1978

²⁴ Quiet Communities Act 2005

²⁵ City of Phoenix Arizona Noise Ordinance

²⁶ Arizona Criminal Code Disorderly Conduct ARS §13-2904

Constructive notice is given and should be taken; that this is not a political issue and not to be considered or handled as such. The actions are a contravention of nature and natures' laws. It is an fundamental matter of Law and Environmental Policy as well as Safety that was first formulated prior to 1969 to present to effectuate a legal basis and understanding upon all Federal Agencies and their employees, of which to protect humans, domestic animals, wild life, plant life, our natural, physical, cultural, social and economic environs.

With this comes new departure and approach criteria of which were guided in part to make air traffic safer and save fuel. With is comes compounding issues of safety, environmental and property values. It has a hefty price tag of noise pollution — as more than just a **public and private nuisance**. It is affecting human health, and the wellbeing of domestic and wildlife due to the lack of transparency, communication, cooperation and collaboration on the part of the FAA requiring accountability on their part as an agency, and those individuals to be held accountable for their acts and omissions.

EMN as well as others estimate that the \$40-B price tag to complete the project exceeds what the project should actually cost. The FAA ought to be able to implement the project at every airport and have all commercial and general aviation aircraft properly fitted to conform with Nextgen at a price tag of \$25-B. The FAA et.al., failed to inform Congress that funds would be used to develop and build a new and secret FAA site. We as well as Congress and the IRS will have to wait and see where the funds really went.

So how did we get to this point? Since the advent of Nextgen the FAA et. al., has worked closely with the Nextgen Advisory Committee and airline industry to put this plan into action. However, they failed to bring in the stakeholders within the nation's Metroplex areas; thus the failure to communicate, cooperate and collaborate. When the Nextgen Advisory Committee met here in Phoenix on February 20, 2014, the City of Phoenix and airport officials were excluded.²⁷

The FAA et. al., displayed great bias toward the Atlanta airport ATL in providing proper application of NEPA, other applicable laws and FAA Orders cited herein in the Nextgen process. This is due to the fact that Richard Anderson, CEO Delta Air Lines, Inc. is also Chairman of the Nextgen Advisory Committee (NAC) and his corporate office is next to the ATL airport. The FAA, et. al. and NAC favored applying the NEPA process to Atlanta over Phoenix and other metroplex areas. This causes a qualified prejudice and discrimination towards the City of Phoenix and its Citizens, the Gila Indian Reservation, publically and privately, and would include a violation of Environmental Justice. These extend to other Metroplex sites.

The 40-billion dollar project Congress even balked at as being too costly and did not reasonably believe it could be done effectively or efficiently. This has held true as the FAA et. al., forced implementation to render demanded time frames in order to obtain funding, thus skipping critical components altogether. Verbal conversation with low level Phoenix Airport employees does not constitute consent of the City of Phoenix and its Citizens to proceed.

This is intrinsically important to the author personally/privately as his residence is just inside the 10 mile marker beacon near 31st Avenue and Baseline Rd. in Laveen. His wife is attempting to survive cancer whereby the increased noise pollution is more than just a nuisance.

²⁷ Meeting Summary, February 20, 2014 NextGen Advisory Committee (NAC)

It directly affects her sleep and rest, disturbing her limited quality of life further into medical and psychological decline. In other words, she and others like her cannot heal hence such actions are considered an assault upon them. One can no longer enjoy the open doors for fresh spring air, as planes pass over and formulate their pollution disturbing quiet dogs making them bark senselessly up at the noisy sky.

While the author was in the back yard one Saturday a private jet came from the south over their house on approach at 1935 ft. according to James Davies, Phoenix Aviation; which would be approximately 1,800 ft. actual. This was not in the planed approach flight path. It was reported directly to ATC, the individual manning the phone stated that Phoenix ATC has no control over general aviation. Do not appreciate being lied to; what is the FAA et. al., covering up?

The new departure and approach criteria are to affect stage 3 aircraft below 75-K-lbs. Stage 2 aircraft are to be phased out end of FY 2015. Heavy aircraft are not included in the new plan as they are supposed to take a more east and west direct path out of PHX. However, we see heavy aircraft flying the new departure contours. As an example, on March 3, 2015 a DHL flight @ 08:53 and a FedEx flight @ 08:55 departed wheels up from PHX and flew over disturbing my residence and the community. The FAA cannot stick to its own plan and able to change it at will and therefore should be able to revert to previous contours, and or adjust the new ones. It is a matter of two switches, as the FAA has to have a backup plan otherwise it would put passengers and the public in danger.

On September 29, 2015 Greg Argos, reporter for CBS 5 AZ KPHO TV did a short story entitled "FAA's new flight plan sends jets over Phoenix neighborhoods".²⁸ Within that story he quoted Ian Gregor, Communications Manager FAA Western-Pacific Region in pertinent part:

"The FAA conducted safety and environmental analyses of the new procedures. Although none of the projected noise increases were considered significant under the National Environmental Policy Act, we know residents in one area have noise concerns and we are working to better understand those concerns."

EMN contacted the City of Phoenix Aviation Department and they have no record of such reports or documentation, except a purported CATEX which does not conform to the requirements under NEPA. EMN then phoned Amy Gibbons, Environmental Protection Specialist, FAA Phoenix Airports District Office, and she stated she had no knowledge and to contact Ian Gregor. On March 10, 2015 we submitted an email to Ina Gregor to request that he confirm and qualify his statement to the press and public for the FAA by providing us with supporting documentation especially pertaining to the environment; or in the alternative publish a retraction of the statement.

After corresponding back and forth Mr. Gregor has not provided the documents as requested, otherwise to confirm or qualify his comments, and or retract his statement. He has suggested that EMN file an FOI request. EMN has since confirmed that there are no such documents or reports that would remotely conform to the mandates of NEPA, applicable laws and FAA Orders as cited herein. So why is the FAA et. all., knowingly and intentionally

²⁸ CBS 5 KPHO TV "FAA's new flight plan sends jets over Phoenix neighborhoods", September 29, 2014

obfuscating the process further clouding transparency by such disinformation and propaganda by such untruths, dishonesty and lack of agency integrity to the City of Phoenix and the public?

EMN brings with purpose and openly expose the FAA's et. al. failures and their creating a *Desperate Impact* upon the City of Phoenix its Citizens (public and private) and surrounding areas; which they have common with FAA impacting other airports in the United States of the Metroplex plan. This is applied to the topics of: Safety, Environmental and Property Values.

SAFETY:

With the implementation of the Nextgen process several programs have been integrated systematically under the new programs and procedures that are GPS based over that of conventional radar.

- Automatic Dependent Surveillance–Broadcast (ADS-B)
- Data Communications (Data Comm)
- Collaborative Air Traffic Management Technologies (CATMT)
- En Route Automation Modernization (ERAM)
- Terminal Automation Modernization and Replacement (TAMR)
- NAS Voice System (NVS)
- NextGen Weather Processor (NWP)
- System Wide Information Management (SWIM)

1.) As the FAA transcends from conventional radar to a GPS based aviation system, there may be issues with its integrity that have not been tested as of yet. One would have to ask, what are the possibilities of the system being corrupted, hacked or spoofed? Legitimately, technology would have to be in place to prevent such. We find no such evidence in the FAA documentation of an internal or independent system. With aircraft flying closer together now the system would only have 20 seconds or less to alert one to such an event and to correct it. Can it do that and have your trained personnel in it? Is existing radar, signals and physics enough?

2.) Being that the FAA et. al., failed to include the City of Phoenix and other government bodies in the Nextgen process, it left open to error in developing the needed and required emergency resources and procedures in case of an event related to new departure contours and a single aircraft going down, or a catastrophic air collision. Have you joined efforts in such with the Gila Indian community S. W. of PHX where the impact zone is most likely?

3.) Arizona has some extreme weather events during the monsoon season. One is termed a Haboob which comes from the Arabic (هَبُوبٌ habūb) definition "blasting/drafting". This author's professional experience with them was as a training instructor on Operation Eagle Claw, also the one that advised Secretary of State Cyrus Vance to abort the mission. In April 1980 it proved deadly to fly in such storms. During the operation, he developed the **3-C's**: Communication, Cooperation and Collaboration which has been utilized in government, corporate and private sectors since 1980. The FAA et. al., has failed to utilize it in Nextgen. The FAA has to be able to adjust the departures and approach contours during a significant storm event to avoid these storm fronts. Will the GPS system be able to adjust quickly enough to make this adjustment in time to avoid a catastrophic failure?

- 4.) If the GPS system were to ever go down or fail for any reason, what is your backup plan and procedures? We can find no documents that are disclosed or even presented to Congress to this effect. Is the conventional radar to be utilized as such?
- 5.) In Laveen there is one remaining small private airpark that of Hanger Hacienda **AZ90**. South west departure traffic from PHX intersects at current altitude with approach to AZ90 runway 8 from the west. This creates available airspace for incursion or an incident.
- 6.) The Marine Corps conducts night training from Gila Bend/Yuma traveling east over the Estrella Mountains and South Mountain region at usual altitudes of 6-K to 10-K. West departures and approaches to PHX intersect at altitude with this flight path. It too creates available airspace for incursion or an incident. The portion of the Estrella Mountain range is on the Gila River Indian Reservation which the FAA et. al., has not utilized the 3- C's with. The military is not known for reporting incursions with civilian aircraft.

ENVIRONMENT:

It is most difficult to reasonably believe that the FAA et. al., is taking environmental issues so seriously. Granted, it is good that advancements are being made in engine and fuel technologies and the support behind them. This is only done because it is being mandated and it allows commercial air carriers to save on fuel costs. It is only a side issue added to make the industry look good in the eyes of the general public by reducing CO₂ and other pollutants from the atmosphere.

The FAA's et. al., and industry views contradicts its practices over the years to date. The FAA and industry does not report how much fuel is dumped and wastes from hydraulics are dumped into our atmosphere by single events, or collectively in annual reports.

The FAA et. al., continues to allow commercial carriers to perform aerial sorties by the introduction of geo-engineered *chemtrials* (not contrails) into our atmosphere. Congress has previously determined that chemtrials are part of a space based weaponized system and have been outlawed.²⁹

Chemtrials contain metals and other substances that are hazardous to human health and our ecosystem, e.g., Ethylene Dibromide, Nano-particulates of Aluminum and Barium and Cationic Polymer Fibers with unidentified bioactive material. Those fibers are found in individuals with Morgellons Disease.

Chemtrials cover our skies and reflect light back into the atmosphere in an attempt to prevent rays from reaching earth. It has a reverse effect which controls weather or creates and or induces climate change by increasing temperatures with trapped gases. This produces extreme weather events that cannot be controlled, and destroys crops. It does not allow for the photosynthesis process to complete and suffocates plant life and further prevents the suitable pollination of plants. Chemtrials can also be utilized in conjunction with other weather modification or weapon systems e.g. HAARP (IRI)³⁰ which too has been outlawed by Congress ([n27](#)).

²⁹ Space Preservation Act of 2001, 107th Congress 1st Session HR 2977, October 2, 2001

³⁰ High Frequency Active Auroral Research Program HAARP

With the pollutants introduced into our atmosphere it does not demonstrate that such a secret hidden from the general public is in their best interest or conducive to our environment as the FAA et. al., may claim. Why is the FAA et.al., still allowing commercial carriers to use weapons against Citizens of the united States and of Arizona?

The FFA prepared a document to change current FAA Order 1050.1E to Congress of which in part to remove the requirements under NEPA, more specifically to Sec 213 for Category Exclusions. ³¹ Acceleration of NextGen Technologies (C) Implementation Plan For OEP Airports, and (iv) expedited environmental review procedures, under the proposed FAA Order 1050.1F which has not been made law. Critical changes are requested under Section 14 – 17 of the proposed legislation affect CATEX or Category Exclusions.

Congress knew that the FAA was attempting to avoid this critical process in not having to file an Environmental Assessment (EA) but rather a CATEX, and further wanted extended exclusions from filing category requirements. Despite FAA’s disclaimer that “[a] CATEX is not an exemption or waiver of NEPA review,” a categorical exemption is exactly what it purports to be: an exclusion from the normally applicable requirement to perform review under the National Environmental Policy Act, 42 U.S.C. § 4321, et seq. (“NEPA”). Apparently recognizing this, Congress enacted the caveat that a categorical exemption will not apply where “the Administrator determines that extraordinary circumstances exist with respect to the procedure.” FMRA § 213(c)(1), although what precisely constitutes an “extraordinary circumstance” is not explained in the proposed rule.

However, to deviate from and lessen the requirement to benefit the FAA is not the intent of NEPA is obvious. In summary, Congress has now mandated the development of a per flight noise metric for PBN procedures, and FAA will be required to adjust its traditional metric to conform to it. The cooperative government agency and reporting/disclosure procedures have not changed. The FAA et. al., has in fact deviated from the NEPA policy and lessened its own requirements in CATEX exclusions, by not evaluating all the critical categories’ effectively or properly. Congress had to correct the FAA’s et. al. attitude. ³²

The FAA e.al., has still not understood the requirements under NEPA and have continually deviated from it. After the FAA et.al., publicly announced that they were not required to file an EA and was exempt to file CATEX under FMRA § 213(c)2, Congress had to explain and correct the stiff necked approach of the FAA et. al., to explain the intent of the law. ³³

The FAA et. al;., has refused to openly publish its premature findings under its CATEX process. It has further refused to provide the essentials elements of how it reached its results to the City of Phoenix. There is a requirement under NEPA and the FAA’s own rules on agency communication and cooperation with OEP’s and that partnership with the city of Phoenix. ³⁴The FAA’s et.al., lack of transparency, communication cooperation, and collaboration would qualify as a material cover up and criminal offenses.

³¹ FAA Proposed Category Exclusions, August 2013

³² Federal Register /Vol. 79, No. 160 /Tuesday, August 19, 2014 /Notices

³³ Explanatory Statements Attached to Congressional Legislation

³⁴ Guidance For Implementation of the Categorical exclusion in Sec 213 (c)(1) of the FAA Modernization And Reform Act of 1012

- 1.) One of the greatest concerns with the Nextgen Metroplex changes is the **noise pollution** forced upon communities, and the resulting negative impacts upon humans, domestic animals, and wildlife and plant life, in the Phoenix are more essential to Laveen, and South Phoenix and central corridor.
- 2.) The City of Phoenix conducted a small sampling of noise pollution for February 3 to 11th 2015 from 37 sampling points published March 23rd 2015. ³⁵ The author's residence is in the flight path between zones 2 on 27th Avenue and Vineyard B at Cesar Chavez High School. The overall data represents an average utilizing DNL and Lmax matrix for specific flights and type of aircraft in the sampling. The test sampling demonstrates that the noise levels have exceeded the baseline data and are a violation of law. An imperative measurement is for internal levels especially for schools of 45db., which ambient sampling may reflect the inability to reach this. Noise that one cannot hear can still be damaging ³⁶ and noise emissions upon approach. ³⁷
- 3.) The noise for departing and approach aircraft is more than just a public and private nuisance; it is classified as a form of **environmental pollution** that damages human health. The negative impacts are consistent with headaches, hearing loss, loss of sleep, ³⁸ stress and disruptive cognitive behavior, and unrest with school students in the ability to learn. ^{39 40} It greatly diminishes the quality of life that is guaranteed in the Preamble to our Constitution [tranquility], (n9) and the Fourteenth Amendment (n10) protections. Stress is a leading root cause of cancer in healthy individuals.
- 4.) Aircraft noise will further present negative impacts upon human health as it relates to the **Natural** environment. South Mountain Park and Preserve ⁴¹ with more than 17,000 acres⁴² is the largest of its kind in the country and is home to hundreds of species, some are on the State endangered listing⁴³ as well as Federal watch list. The new plans are currently interfering with migrating butterflies, and bird species that stay in the area. Many do not know it but SM is a stopping point for humming birds as they rest and store food before they migrate to Africa. The new flight contours are over the mountain.
- 5.) Early departure contours will affect the new facility development for Liberty Wildlife Rehabilitation Foundation, Inc. ⁴⁴ at 2600 E. Elwood 85034 just south of the Salt River. Eagles, condors, owls, hawks and the like as well as other wildlife native to Arizona will be cared for there, and become a teaching facility for the public. Birds would be able to utilize the Salt River to hunt and recover from injury. Noise will prevent this as well as the natural process procreating and nesting.

³⁵ Phoenix Sky Harbor International Airport Temporary Noise Measurement Report, March 25 2015

³⁶ Sounds you can't hear can still hurt your ears, Sarah C.P. Williams, September 30, 2014, American Association for the Advancement of Science

³⁷ An Experimental Analysis of Frequency Emission and Noise Diagnosis of Commercial Aircraft on Approach, S Khardi, 2008.

³⁸ Research Methods for Understanding Aircraft Noise Annoyances and Sleep Disturbance, ACPR April 2014

³⁹ Assessing Aircraft Noise Conditions Affecting Student Learning Vol 1, ACPR January 2014

⁴⁰ Assessing Aircraft Noise Conditions Affecting Student Learning Vol 2, ACPR January 2014

⁴¹ Phoenix South Mountain Preserve and Park

⁴² Video of South Mountains Park Preserve, Chuck Emmert-Know 99 Phoenix TV

⁴³ Arizona Threatened and Endangered Species List, Arizona Game and Fish Department 2014

⁴⁴ Liberty Wildlife Rehabilitation Foundation

6.) New flight departure contours cross Central Avenue at the Salt River where the Nina Mason Pulliam Rio Salado Audubon Center located at 3131 S. Central Avenue Phoenix, AZ 85040, has a habitat and hands on educational facility.⁴⁵ This is a new home for local species of birds as new species are calling it home as well, for over 200 species. New contours foist noise pollution that would prevent birds from migrating and breeding normally in this desert/wetland habitat.

7.) Since the new departure contours have been in place, it has been noticeably prevalent that wildlife in the light urban areas as Laveen has diminished considerably. Coyotes are not breeding in the fields and moving about, or even trotting down local streets. Various species of birds of prey are scarcely seen. Even doves and quail are hard to find. Their normal instinct to hunt and breed has been disrupted by the noise pollution. The four species of bats germane to Phoenix have diminished. They are needed to eat insects that destroy crops in the area.

8.) The FAA et. al., has not fully considered the **Physical** environment as to ones surrounding and structures. This would encompass a verity of home categories, residential parks, city parks, libraries, hospitals, religious places of worship and schools (public, Charter and private) and day care centers all effected by the increase in noise pollution.

9.) The FAA et. al., has not fully considered the **Cultural** environment as to the many aspects in the Phoenix area. It is diversified with over 70 language groups and many ethnic and racial groups (other than whites or Caucasians) making them minorities as well. It is what makes the community rich, vital and interesting. Phoenix has Africans, African Americans, Blacks, Hispanics, American Indians, Indians and many Asian groups just to name a few. Noise pollution affects culture as well.

10.) The FAA et. al., has not fully considered the **Social** environment as to how individuals engage and relate one another and publically engage in many setting of which to communicate openly. Noise pollution hampers social engagement by having to speak louder on the phone with aircraft background noise, face to face and in meeting situations as well as just watching TV with someone.

11.) The FAA et. al., has not fully considered the **Economic** environment of which modern societies work and depend upon for their survival. Noise pollution impacts business large and small, but most of all one has to value the agricultural portion lost in revenue due to noise, affect cradle to end use of food sources, suppliers, restaurants, etc.

12.) The FAA et. al., has not fully considered the gravity of failing to measure or calculate the five (5) core values of Sustainability in items 4, 8, 9, 10 and 11 above. In doing so, you have abrogated individual; and class rights primarily to minorities in the South Phoenix, Laveen and Gila Indian Community as individuals and a class emanates to a violation of **Environmnetal Justice**. (n19) This is one of the core elements described in NEPA which is critical for the FAA et. al. to follow. Without it, you cannot comprehend the First tenant of “The 10-R’s of Sustainability” which is **Respect**. (n7) As such, the FAA et. al., is not rooted...even partially in understanding Sustainability as a total process let alone to the environment and total ecosystem.

⁴⁵ Nina Mason Pulliam Rio Salado Audubon Center, Phoenix, AZ

PROPERTY VALUES:

For years Laveen and South Phoenix relators have always prided themselves in presenting commercial and residential real-estate to potential clients in the light of being more rural and away from the hustle and bustle of Phoenix and away from the airport.

- 1.) There is corresponding value of commercial property and residential property with relation to the noise level in a given community. With noise pollution from aircraft, the value of the property decreases with each increase in decibel level. This hampers the sale of properties as well as rental of properties. The trend with new Nextgen procedures reflect a decrease in sales due to noise levels as well as the availability to see at a higher value price upwards of 10%.
- 2.) This also creates a specific concern for our Economic Environment as the Phoenix real-estate market is trying to recover from the previous crash. The FAA will have to mitigate noise pollution in the Phoenix area at a cost of approximately \$500-M, this does not include the other two Metroplex airports in Arizona.

CONCLUSION:

It is reasonably believed from the bad acts and omissions described and alleged herein, that the FAA et. al., has acted arbitrarily and capriciously of which to achieve their goals at the expense of individuals and classes and the City of Phoenix, publically and privately. In doing so have deliberately acted in violation of the Constitution for the united States and laws thereof, the laws of Arizona and City of Phoenix. This gives the appearance that the FAA et. al., supports a form of government contrary to a Constitutional Democratic Republic, a government by the people and for the people of which you work for and your salaries are paid.

It is both necessary and imperative that the FAA et. al., takes all these issues seriously, stop the propaganda campaign and Communicate, Cooperate and Collaborate with leaders in Phoenix government and their representatives, the Phoenix Airport Staff, the public at large and individuals.

The Phoenix Nextgen Metroplex project as well as Metroplex projects are funded by US tax dollars approved by Congress through the Internal Revenue Service (IRS). As such, the totality of the project belongs to the IRS of which the FAA et. al., is accountable, and as a prerequisite, the IRS requires that the FAA et. al., obey all Federal laws in the project if they wish to continue to receive current funding, and or be penalized for violations.

It is advisable for the FAA et. al., to attend meetings on these issues held by the City and be a part of the process to resolve them, and to expand the representation of the Advisory Board with government representation as well as from the public.

The FAA is in need of providing funds to the City of Phoenix for the added cost to ending FY 2018 for increased contour testing and modeling expected to be approximately \$4-M so the tax payers do not have to suffer the costs.

The FAA et.al., should find it reasonable and prudent to adjust the new departure and approach contours so that noise pollution will not cause harm to human health and effect the environment. It is possible to revert to flight paths prior to September 18, 2014 but your ambition and goals of profit over the environmental are a reality.

EMN has now embarked upon the 45th Anniversary of Earth Month. Where have we as a nation come since then, where has the FAA come since its inception and where is it going? It is amazing that a Federal Agency refuses to obey Congress and the mandates in NEPA and its own policies it promulgated. Indeed, our Planet Earth is in Peril, and the FAA et. al., is helping it to its demise.

Over the past forty-seven years, this author has been active in protecting our precious environment and ecosystem. And still yet, we have a federal agency declining to cooperated with our laws, communicate with other government entities' the public and minorities, and further refuses to collaborate to resolve issues involving human health and the environment. The Apostle John described the eventuality of this disregard, whether it is an organization or individual "...and to bring to ruin those ruining the earth." [Rev 11:18b](#) This is not a good way to be remembered and judged, who's side are you on?

I Brad Follett, solemnly state that the information and facts contained herein are true and correct to the best of my knowledge and belief, and that they are made in good faith without malice.

Respectfully,

Brad Follett

Brad Follett, Professor of Practice
President/CEO
Earth Month Network, Inc.
P.O. Box 8038
Phoenix, AZ 85066
bradf@earth-month.org
www.Earth-Month.org

Copy:

Calvin L. Scovel III
Inspector General
U.S. Department of Transportation
1200 New Jersey Ave. S.E. - 7th Floor
Washington, DC 20590

Michael G. Whitaker
Deputy Administrator
Chief Nextgen Officer (NGA)
Federal Aviation Administration
800 Independence Avenue
Washington, DC 20591

Glenn A. Martin
Deputy Administrator
FAA Western-Pacific Region
P. O. Box 92007
Lawndale, CA 90009

Hon. Eric E. Holder, Jr.
U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

John Koskinen, Commissioner
Internal Revenue Service
Department of the Treasury
1111 Constitution Avenue, NW
Room 3000
Washington, DC 20224-0002

Christy Goldfuss
Managing Director
White House Council on Environmental Quality
722 Jackson Place N.W.
Washington D.C. 20506

Janet McCabe
Acting Assistant Administrator
Office of Air and Radiation MS-6101A
Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20004

U.S. Rep. Ruben Gallego
Arizona Dist. 7
Washington, DC Office
1218 Longworth House Office Building
Washington, DC 20515

U.S. Rep. Frank LoBiondo
Chair-Subcommittee on Aviation
2427 Rayburn House Office Building
Washington, DC 20515

U.S. Senator Kelly Ayotte
Chair-Subcommittee on Aviation
144 Russell Senate Office Building
Washington, D.C. 20510

U. S. Senator Maria Cantwell
RM-Subcommittee on Aviation
511 Hart Senate Office Building
Washington, D.C. 20510

U.S. Senator Barbara Boxer
RM- Subcommittee on Environment & PW
112 Hart Senate Office Building
Washington, DC 20510

Greg Stanton, Mayor
City of Phoenix
Mayor's Office
Phoenix City Hall 12th Fl.
200 West Washington Street
Phoenix, Arizona 85003

Thelda Williams, Councilwoman
District 1
City of Phoenix
Phoenix City Hall 11th Fl.
200 West Washington Street
Phoenix, Arizona 85003

Jim Waring, Councilman
District 2
City of Phoenix
Phoenix City Hall 11th Fl.
200 West Washington Street
Phoenix, Arizona 85003

Bill Gates, Councilman
District 3
City of Phoenix
Phoenix City Hall 11th Fl.
200 West Washington Street
Phoenix, Arizona 85003

Laura Pastor, Councilwoman
District 4
City of Phoenix
Phoenix City Hall 11th Fl.
200 West Washington Street
Phoenix, Arizona 85003

Daniel Valenzuela, Vice Mayor
District 5
City of Phoenix
Phoenix City Hall 11th Fl.
200 West Washington Street
Phoenix, Arizona 85003

Sal Diccio, Councilman
District 6
City of Phoenix
Phoenix City Hall 11th Fl.
200 West Washington Street
Phoenix, Arizona 85003

Michael Nowakowski, Councilman
District 7
City of Phoenix
Phoenix City Hall 11th Fl.
200 West Washington Street
Phoenix, Arizona 85003

Kate Gallego, Councilwoman
District 8
City of Phoenix
Phoenix City Hall 11th Fl.
200 West Washington Street
Phoenix, Arizona 85003

Ed Zuercher, City Manager
City Manager's Office
Phoenix City Hall
200 W. Washington Street 12th Floor
Phoenix, AZ 85003

Daniel L. Brown
Acting City Attorney
City Attorney's Office
Phoenix City Hall
200 West Washington Street
Phoenix, Arizona 85003

Tamie Fisher
Acting Aviation Director
Phoenix Sky Harbor Airport
3400 E. Sky Harbor Blvd. Ste. 3300
Phoenix, AZ 85034

Richard Anderson, CEO
Delta Air Lines, Inc.
1030 Delta Boulevard
Atlanta, GA 30354-1989

Larry D. Voyles, Director
Arizona Game and Fish Department
5000 W. Carefree Highway
Phoenix, AZ 85086-5000

Albert Pablo, Councilman
Gila River Indian Community Dist. 6
P.O. Box 97
Sacaton, AZ 85147

Anthony Villareal Sr., Councilman
Gila River Indian Community Dist. 6
P.O. Box 97
Sacaton, AZ 85147

Sandra Nasewytewa, Councilwoman
Gila River Indian Community Dist. 6
P.O. Box 97
Sacaton, AZ 85147