

STATEMENT OF JOHN S. KERN, DIRECTOR, OFFICE OF FLIGHT STANDARDS,  
FEDERAL AVIATION ADMINISTRATION, BEFORE THE COMMITTEE ON INTERIOR  
AND INSULAR AFFAIRS, SUBCOMMITTEE ON NATIONAL PARKS AND  
RECREATION, CONCERNING H.R. 921. MARCH 24, 1987.

Mr. Chairman and Members of the Subcommittee:

I welcome the opportunity to appear before the Subcommittee today, along with John Ryan, Director of the FAA's Air Traffic Operations Service, to discuss the Federal Aviation Administration's views on H.R. 921. H.R. 921 would require the Secretary of Interior to conduct a study to determine the appropriate minimum altitude for aircraft flying over national parks system units. Moreover, the bill would also require the FAA to provide technical assistance to the Department of Interior in carrying out the mandated study.

Before describing our views on the bill, I would like to emphasize the FAA's sensitivity to environmental issues and the fact that we have worked in close cooperation with the Interior Department to assess what actions can be taken to reduce aircraft noise in national park areas. In an effort to address environmental concerns in these park areas, we have previously implemented several measures, including: improved charting of park lands on aeronautical charts; revision of the Airmen's Information Manual and the issuance of Advisory Circular materials concerning noise sensitive areas to attain greater cooperation from airspace users; and dissemination of information by local FAA offices on the subject of noise restrictions.

We currently have in effect interagency agreements between DOT/FAA and the National Park Service, Fish and Wildlife Service and the Bureau of Land Management. These agreements were reached in recognition of the environmental and noise concerns generated by aircraft flying over national park lands and wildlife preserves, and established 2,000 feet above ground level as the requested minimum altitude for aircraft flying in airspace over lands administered by NPS, FWS, and BLM. The agreements, while recognizing the public freedom of transit in navigable airspace, reflected a desire to act in cooperation to reduce the incidence of low flying aircraft over NPS, FWS, and BLM administered lands.

In addition to the interagency agreements and the Advisory Circular, the FAA continues to work cooperatively with Department of Interior agencies. We have met on a repeated basis with Department of Interior officials on noise issues and, in particular, consulted with them over our proposed rulemaking concerning the Grand Canyon National Park (GCNP). In that regard, with respect to the Grand Canyon National Park, we believe the provisions of the bill are unnecessary. The FAA has issued a Notice of Proposed Rulemaking on restriction of overflight of the Grand Canyon. Public hearings on the regulations were held in Las Vegas last December and in Phoenix in February. We formally consulted with the Department of Interior on this rule.

We expect to issue the final rule concerning the Grand Canyon National Park shortly. A permanent follow-up rule is under

consideration for implementation when the temporary rule expires on June 15, 1987. We have also been advised that the Department of Interior intends to conduct a two-year study of aircraft noise at the Grand Canyon. The FAA has agreed to provide technical expertise and assistance to the Department of Interior for the study.

To the extent the bill requires and authorizes funds for a study of aircraft noise at various national parks, the FAA has no objection. In fact, we welcome the opportunity to benefit from that additional knowledge. We do object, however, to the bill's approach whereby a management plan for the Grand Canyon would be developed by the Department of Interior, along with recommendations concerning overflights, which the FAA would be required to follow in regulations unless we specifically determined that such recommendations would adversely affect safety. Such a requirement would ignore the responsibilities the FAA Administrator has for assuring both the safe and efficient movement of air traffic in the navigable airspace. Moreover, that approach would be tantamount to the exercise of airspace regulatory authority by someone other than the Administrator, which is a clear departure from present and past practice in which the Administrator bears sole responsibility for the exercise of plenary authority over airspace management. This is a major concern to us and, in our view, would amount to a bad precedent

which could serve to diffuse regulatory authority in the aviation area.

As an example of the specific problems raised by the Grand Canyon provisions, the bill would establish a minimum flight altitude by reference to the rim of the canyon. The rim of the canyon varies in elevation by more than 3,500 feet from the western end of the park to the eastern end. Also, the north rim of the canyon is as much as 2,000 feet higher than the south rim. A statutory limitation on flight below the "rim," therefore, would make the regulation of flight altitudes unnecessarily complex and would not result in any consistent mitigation of noise impact on the canyon surface.

We also have concerns about the interim airspace requirements which would be imposed by Section 2 of the bill. It is generally not practicable, in our view, to attempt to regulate a subject so complex as airspace assignment and aircraft operating rules by specific language in a statute. In that regard, there may well be aeronautical and environmental effects of the airspace restrictions over Haleakala and Yosemite National Parks which have not been considered by the Subcommittee. Moreover, the restrictions, even if adopted, do not provide sufficiently clear guidance to pilots and would require interpretation by the FAA. For example, the minimum altitude above Yosemite is expressed in

feet above the surface, which cannot be determined by a pilot in flight. We believe that specific airspace assignments should be developed only after complete analysis of the issues involved and through appropriate rulemaking which takes into account the full range of pertinent issues.

We would also note our concern over the provisions for enforcement in this bill. Any rules adopted under this legislation would regulate the operation of aircraft in flight. The NPS has no authority to enforce such provisions under existing rules or to promulgate rules for that purpose, and the bill has been drafted to ensure that regulatory authority remains exclusively with the FAA. The possible enforcement of airspace violations by the National Park Service conflicts with that regulatory scheme.

In closing, Mr. Chairman, I would reiterate the FAA's concern over environmental issues related to overflight of national parks. We have worked closely with the Department of Interior on these matters and will continue to do so. In the case of the Grand Canyon, we believe that our rulemaking efforts demonstrate the extent of our concern, and that they offer an appropriate response which will help ameliorate problems in that area. We welcome the continued study by Department of Interior of the issue of overflights and are pleased to offer our technical expertise to them. As I noted earlier, however, Mr. Chairman, we believe that

the management of airspace issues should not be done by statute or by direction of the National Park Service, but should be left to the exercise of the FAA's regulatory authority in a manner which balances all relevant considerations in a public process.

That completes my prepared statement. We would be pleased to respond to questions you may have at this time.