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**HUALAPAI TRIBE**  
**HISTORIC PRESERVATION OFFICE**  
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February 4, 1997

FAA-03-14715-53

Federal Aviation Administration  
Office of Chief Counsel  
Att: Docket Number 28770  
800 Independence Ave., SW  
Washington, DC. 20591

To Whom It May Concern:

On December 31, 1996, the U.S. Department of Transportation adopted rules to restrict and re-route flights within and around the Grand Canyon. Airspace and land over the Hualapai, Havasupai and Navajo Indian Reservations are included in the areas covered by these new regulations. Not to mention Traditional Cultural Properties (TCP's) of the Hualapai, Havasupai, Navajo, Hopi, Zuni, and Paiute people.

These rules were adopted by an agency of the United States federal government without ensuring full compliance with the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA). Two Acts written by another U.S. government agency to protect the very things this new rule(s) is violating. Neither the U.S. Department of Transportation, nor any other agency of the U.S. Government sought to adequately identify and assess the socio-cultural impacts of the regulations on the Hualapai people under NEPA. Nor the potential impacts to the integrity of Hualapai cultural resources under NHPA.

The Hualapai Nation has advised the U.S. Department of Transportation and the U.S. Department of Interior on numerous occasions that we have cultural resources and TCP's within the regulated area which must be assessed prior to implementing the regulations. Our concerns were ignored.

The Hualapai Nation has recently assumed the responsibilities of the Arizona State Historic Preservation Office (SHPO) for Hualapai lands to review and concur on compliance with NHPA for all federal undertakings that may have an effect on historic properties. This responsibility is administered by the Hualapai Nation's Tribal Historic Preservation Office (THPO). The Arizona SHPO had this responsibility until September 9, 1996. Neither the SHPO or THPO have reviewed or approved the implementation of the new regulations. The Hualapai THPO was contacted by the Federal Aviation Administration (FAA) on December 19, 1996 and given one day to respond. This is not a reasonable request on the part of the United States. By letter dated December 20, 1996, the Hualapai THPO advised the FAA that it could take up to thirty days to respond, a standard SHPO procedure. The United States

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implemented the new regulations fully aware that they had not complied with the law and with total disrespect to the Hualapai THPO.

An assessment must be made by the United States of the impacts of the regulations on the following:

- 1) Whether the regulations will affect access to, and ceremonial use of Hualapai sacred sites by Hualapai or other Indian religious practitioners.
- 2) Whether the regulations will adversely affect the physical integrity of such sacred sites.
- 3) Whether the regulations will adversely affect any historic, traditional, or cultural properties of the Hualapai Reservation, and if so, the degree and extent of such impacts.

Neither the U.S. Department of Transportation nor the U.S. Department of Interior has attempted to identify or assess potential impacts to any sacred sites, historic, traditional or cultural properties located on the Hualapai Indian Reservation.

The United States is the trustee for Indian lands and has a legal responsibility to establish procedures to ensure that impacts of federal activities are addressed in planning, decision and operational documents. The United States has a legal responsibility to identify and describe the potential impacts of their actions on Indian trust resources. The United States has a legal responsibility to ensure there will not be detrimental effects on tribal rights, Indian trust resources, and to health and safety. None of this has been adhered to.

The United States has a legal responsibility to engage in meaningful consultation with tribal governments when impacts on Indian trust resources, tribal rights, and tribal health and safety are identified. Consultations must be open and candid with respect to sovereign status of American Indian tribal governments. None of this has been adhered to.

The Hualapai Nation has made numerous attempts to be involved in the rulemaking process but have been ignored. The Hualapai Nation asked the Department of Transportation and the Department of Interior to include us in the meetings held by the Interagency Working Group in formulating the new regulations. The Hualapai Nation's request was denied.

Neither the Department of Transportation nor the Department of Interior has consulted with the Hualapai Nation in good faith. As a sovereign nation, we have written numerous letters to the Department of Transportation and to the Department of Interior, and the concerns which we have expressed have been ignored.

**There were 21 environmental studies completed on Grand Canyon National Park lands and at least one on U.S. Forest Service lands within the regulated area. No environmental assessment has been initiated or completed for the Indian lands included**

**in the regulated area. This demonstrates a blatant disregard by the United States for the impacts of the regulations on our land, our rights, and our people.**

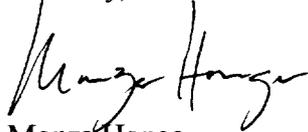
The United States has a basic trust responsibility to protect the property and resources of the Indian trust estate, including air quality, airspace, and our rights to the use of airspace. Utilizing U.S. Department of Transportation regulations to prohibit the Hualapai Nation from using our own ordinary airspace, and in many cases, prohibit our use of surface rights by prohibiting access, is a violation of the United States' trust responsibility to our tribe.

The new regulations may cause significant adverse impacts to the Hualapai Nation. The new regulations are a significant Federal action, as described in the National Environmental Policy Act and Council for Environmental Quality regulations, which demand an environmental impact statement be prepared. The environmental impact statement should have been completed prior to implementing the regulations.

The United States Department of Transportation is responsible for ensuring full and complete compliance with both NEPA and NHPA. Any socio-cultural impacts or any impacts to historic properties as a result of the implementation of these regulations are the responsibility of the Department. The Hualapai Nation intends to ensure that the Department identifies, assesses, and fully addresses all potential impacts to Hualapai resources and the Hualapai people through full cooperation, involvement, and consultations with the Hualapai Nation. We reserve the right to take any action necessary to ensure full compliance with all applicable laws.

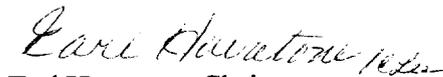
The Hualapai Nation, Tribal Historic Preservation Office, hereby directs the United States Department of Transportation to cease implementation of any re-routing of flights from the Grand Canyon National Park to the airspace of the Hualapai Nation. To cease any other changes in the flight patterns and regulations for aircraft navigation above the Hualapai Indian Reservation, until such regulations are in conformance with the National Historic Preservation Act and National Environmental Policy Act.

Sincerely,



Monza Honga  
Tribal Historic Preservation Officer

Concurrence:



Earl Havatone, Chairman  
Hualapai Tribal Council