

George Clyde, Chair
Greater Farallones National Marine Sanctuary Advisory Council
Working Group on NOAA Regulated Overflight Zones

January 20, 2017

To the Members of the Sanctuary Advisory Council
Attn: John L. Largier, Chair

Dear Members of the Sanctuary Advisory Council,

Yesterday, I transmitted to you the Recommendations of the Working Group. By this letter I am separately transmitting the statement prepared by the three Pilots in the Working Group (the Pilots' Statement) expressing their views, which they summarized as follows:

At this time the pilot group cannot support any new low overflight regulations that do not coincide with the existing FAA regulations. We feel that these proposed NOAA regulations would cause greater safety issues, and we request that moving forward 100% of the Marine Sanctuaries resources be put into an enhanced Education and Outreach Program, Furthermore, the pilots have agreed to remain engaged and offer to be a continued resource, including whether the FAA's jurisdiction over airspace precludes NOAA from establishing NOAA Regulated Overflight Zones (NROZs).

To clarify, the Pilots' Statement is a separate statement by the three pilots, but has not been considered by the Working Group and is not a part of the Recommendations. The pilots presented these views to the Working Group during our deliberations, but it was agreed that they should be distributed to the Sanctuary Advisory Council (SAC), separate and apart from the Recommendations, and not attached to or appended to them.

Nevertheless, the views expressed are shared by others in the aviation community, and it is only fair that they be formally presented to the SAC, separately from the Recommendations, and separately posted on the Sanctuary's website. In addition to presenting views that the SAC members may wish to consider along with public comments and further explaining their votes against any new NROZs, distributing and posting the Pilot's Statement recognizes the many contributions made by the pilots during approximately 60 hours of meetings, and it honors the commitments I made to them as the Working Group Chair.

Please distribute and post the Pilot's Statement, accompanied by this letter, in the same manner as with the Recommendations.

Sincerely,



Pilots Comments to Working Group Recommendations

Pilots comments to;

Greater Farallones National Marine Sanctuary Advisory Council

Greater Farallones Sanctuary Overflight Working Group

Andy Wilson-Private Pilot (Instrument rating)

Brian Branscomb-Commercial Pilot (ATP, CFI)

John duGan-Commercial Pilot (Helicopter)

January 18, 2017

The Pilots ask that the Sanctuary Advisory Counsel forward the following statement to the Superintendent.

First, we would like to express our gratitude to the Greater Farallones National Marine Sanctuary Advisory Council for inviting us to participate in the Overflight Working Group.

With that said, We acknowledge the effort and resources expended by the Sanctuary to directly involve the aviation community to address disturbance issues through this unique process. We feel that it has been an extremely interesting and informative experience collaborating with our fellow working group members to better understand the myriad of issues and challenges potentially affecting marine resources along the central California coastline.

Throughout this process, we have worked diligently regarding overflight disturbance concerns and to educate the working group members on the basics of aviation principles, including weather and corresponding FAA flight rules and regulations, limitations, and potential emergency scenarios.

While we met over the past year in good faith, and throughout the process we have generally supported some concepts, most specifically the Education and Outreach recommendations, but for the numerous exposed safety concerns we simply cannot support the final document for two overarching reasons:

Airspace Regulation:

Despite multiple discussions during the Working Group meetings, at the end of this process, the pilots remain certified and regulated by the Federal Aviation Administration, and unconvinced that NOAA has the authority or mandate to regulate any airspace within the National Airspace System (NAS). We are trained that the FAA is the sole federal agency with responsibility to manage and regulate the NAS. The NOAA "rebuttable presumption" implies that flights below 1000 ft AGL in the overflight zones cause disturbance. We perceive that this is a flight restriction regardless of the legal language and this may create an unsafe level of confusion in the aviators' cockpit.

As a result of this potential misunderstanding, we strongly believe that these NOAA zones can burden aviators to the point of confusion in specific weather or emergency situations.

Education and Outreach: GR-10; pilot Outreach and Education recommendations

Throughout this process, we have continually expressed our support for minimizing disturbances to the marine life along the coast by aircraft and all other factors. We strongly believe that Education and Outreach is the most effective way to approach the issue of protecting the nation's marine mammals and seabirds while simultaneously respecting and ensuring the safety of aviators and their passengers.

In our professional opinions, a sustained, targeted Education and Outreach Program would be much more productive and effective than the current convoluted regulatory approach.

The aviation community is motivated and desires to be good stewards of the environment and our shared marine resources. Our approach would be to do this through the Federal Aviation Regulations (FARs), a language the aviators are trained & certified to understand.

Public Right of Transit

Sec 104: There is here by recognized and declared to exist in behalf of any citizen of the United States a public right of freedom of transit through the navigable airspace of the United States.

Public Law: 85-726-Aug 23-1958

The FAA has almost 100 years of experience in safely managing the National Airspace System and over that time has learned at the cost of numerous lives, the attention to detail that is required. NOAA, as a potentially a new “airspace regulating agency”, to go through the same learning curve, we feel could be the cost of additional life's.

In summary

At this time the pilot group cannot support any new low overflight regulations that do not coincide with the existing FAA regulations. We feel that these proposed NOAA regulations would cause greater safety issues, and we request that moving forward 100% of the Marine Sanctuaries resources be put into an enhanced Education and Outreach Program, Furthermore, The pilots have agreed to remain engaged and offer to be a continued resource.

Thank you for your consideration

Respectfully

The Pilots