

**ADDRESSES:** You may mail comments and related material to Commander, Fifth Coast Guard District Legal Office, Federal Building 2nd Floor, 431 Crawford Street, Portsmouth, Virginia 23704-5004, or they may be hand delivered to the same address between 8 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Christine N. Cutter, Legal Advisor, Fifth Coast Guard District, at telephone number (757) 398-6291.

**SUPPLEMENTARY INFORMATION:**

**Request for Comments**

We encourage you to submit comments and related material. If you do so, please include your name and address, identify the docket number for this notice CGD05-03-003, indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know that your submission has reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

**Background**

The Coast Guard, in a letter dated January 6, 1954, determined that Lake Fontana, an impoundment of Little Tennessee River, wholly located in western North Carolina, is a navigable body of water of the United States for purposes of Coast Guard jurisdiction. The Coast Guard's determination relied primarily on a letter from the Tennessee Valley Authority (TVA) dated September 24, 1953. The TVA letter further referenced a 1953 tentative decision by the Federal Power Commission (FPC), which determined that the Little Tennessee River was a navigable water of the United States from its mouth to a point above the former site of Bushnell, North Carolina, which is upstream of Fontana Dam at mile marker 61.

After the Coast Guard issued its determination, on March 4, 1954, the Federal Power Commission issued a final decision *In the Matters of Aluminum Company of America, Knoxville Power Company; Carolina Aluminum Company*, Docket Nos. IT-5696; 5697, 5698 Opinion No. 267, 13 F.P.C. 14; 1954. The final decision was rendered after all parties had the opportunity to present additional evidence on the issue of navigability.

Briefs and exceptions to the tentative and initial decisions were filed and oral argument was heard on the case. Therefore, the final decision considered all the relevant evidence for determining navigability on the Little Tennessee River. The final decision failed to reference information contained in the tentative decision on logs being floated down the Little Tennessee River from Bushnell, NC. The Federal Power Commission determined that the Little Tennessee River is a navigable body of water of the United States from its mouth to at least the mouth of Abrams Creek at mile 37. Therefore, Lake Fontana, which is formed at mile 61 by the construction of the Fontana Dam, was not considered by the Commission as a navigable body of water of the United States. The Coast Guard did not make a corresponding change to its navigability determination to reflect the FPC's final decision.

In addition, there are no federal court decisions or congressional actions concerning Lake Fontana's navigability. As a point of clarification, the Department of Energy Organization Act abolished the Federal Power Commission (FPC), on October 1, 1977 and the new agency the Federal Energy Regulatory Commission inherited most of the FPC's responsibilities.

**Purpose**

While the Coast Guard is not required to provide notice of a change in navigability status, this document serves to bring to the attention of the public and the State of North Carolina the Coast Guard's intention to change the navigability status on Lake Fontana that has been in effect since 1954. Reliable evidence as contained in the final decision by the Federal Power Authority supports the navigability of the Little Tennessee River up to mile 37. Therefore, the Coast Guard plans to amend its navigability determination of Lake Fontana to be non-navigable for purposes of Coast Guard jurisdiction.

When making a determination whether a particular body of water qualifies as navigable water for purposes of Coast Guard jurisdiction, the Code of Federal Regulations and federal case law are controlling. The statutory provisions were derived from the test for navigability as pronounced in *The Daniel Ball*, 77 U.S. 557 (1870). Title 33 CFR 2.05-25 (a)(3) defines waters such as Lake Fontana—that is, internal waters not subject to tidal influence—as navigable waters if such waters “are or have been used, or are or have been susceptible for use, by themselves or in connection with other waters, as highways for substantial interstate or

foreign commerce notwithstanding natural or man-made obstruction that require portage.”

The Coast Guard's administrative determination regarding a body of water's navigability status is solely for the purpose of administering and enforcing applicable Coast Guard laws and regulations. This planned change in determination would not be conclusive on the issue of whether a body of water is navigable water for other federal purposes.

Dated: February 5, 2003.

**J. D. Hull,**

*Vice Admiral, Coast Guard, Commander, Fifth Coast Guard District.*

[FR Doc. 03-3982 Filed 2-18-03; 8:45 am]

**BILLING CODE 4910-15-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**Notice of Intent To Rule on Request To Release Airport Property at the Ankeny Regional Airport, Ankeny, IA**

**AGENCY:** Federal Aviation Administration, (FAA), DOT.

**ACTION:** Notice of request to release airport property.

**SUMMARY:** The FAA proposes to rule and invites public comment on the release of land at the Ankeny Regional Airport under the provisions of section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

**DATES:** Comments must be received on or before March 21, 2003.

**ADDRESSES:** Comments on this application may be mailed or delivered to the FAA at the following address: Federal Aviation Administration, Central Region, Airports Division, 901 Locust, Kansas City, Missouri 64106-2325.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Dave L. Joens, P.E. & P.L.S. at the following address: Polk County Aviation Authority, 5885 NE., 14th Street, Des Moines, IA 50313.

**FOR FURTHER INFORMATION CONTACT:** Nicoletta Oliver, Airports Compliance Specialist, FAA, Central Region, 901 Locust, Kansas City, MO 64106-2325, (816) 329-2642.

The request to release property may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA proposes to rule and invites public comment on the request to release

property at the Ankeny Regional Airport under the provisions of AIR 21.

On February 6, 2003, the FAA determined that the request to release property at the Ankeny Regional Airport submitted by the Polk County Aviation Authority, met the procedural requirements of the Federal Aviation Administration. The FAA will approve or disapprove the request, in whole or in part, no later than May 30, 2003.

The following is a brief overview of the request.

The Polk County Airport Authority requests the release of approximately 4.91 acres of airport property. The purpose of this release is to transfer ownership to the Iowa Department of Transportation (IDOT) for an interchange project located south of the airport property. The land is currently not being used for aeronautical purposes. Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER**

**INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the request in person at the Polk County Airport Authority, Des Moines, Iowa.

Issued in Kansas City, Missouri, on February 6, 2003.

**George A. Hendon,**

*Manager, Airports Division, Central Region.*

[FR Doc. 03-3972 Filed 2-18-03; 8:45 am]

**BILLING CODE 4910-B-M**

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Notice of Intent To Prepare an Environmental Impact Statement and Conduct Scoping for Air Traffic Procedural Changes Associated With the Northern Utah Airspace Initiative

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of intent to prepare an environmental impact statement and conduct scoping meetings.

**SUMMARY:** The Federal Aviation Administration (FAA), Northwest Mountain Region, is issuing this notice to advise the public, pursuant to the National Environmental Policy Act of 1969, as amended, (NEPA) 42 U.S.C. 4332(2)(C) that the FAA intends to prepare an Environmental Impact Statement (EIS) for the proposed Northern Utah Airspace Initiative. This Notice of Intent is published as required by the President's Council on Environmental Quality (CEQ) Regulations implementing the

provisions of NEPA, 40 CFR parts 1500-1508. This EIS will assess the potential environmental impacts resulting from proposed modifications to air traffic routings in the metropolitan Salt Lake City and surrounding areas. Airports in this area include Salt Lake City International Airport, Ogden-Hinckley Airport, Hill Air Force Base, and the Provo Airport, as well as other smaller general aviation use airports. All reasonable alternatives will be considered including a no-change alternative/option. In order to ensure that all significant issues pertaining to the proposed action are identified, public participation, through public scoping meetings, will be held.

**FOR FURTHER INFORMATION CONTACT:**

Clark Desing, (801) 325-9626, PO Box 22867, AMF, Salt Lake City, Utah, 84122 or see the following Web site: [http://www2.faa.gov/ats/nar/nw\\_mt/nw\\_mt\\_salt.htm](http://www2.faa.gov/ats/nar/nw_mt/nw_mt_salt.htm).

**SUPPLEMENTARY INFORMATION:** The Northern Utah Airspace Initiative will examine the airspace surrounding the Salt Lake City International Airport, up to the en route structure. The airports in the study area are: Salt Lake City International Airport, Ogden-Hinckley Airport, Hill Air Force Base, and the Provo Airport, as well as other smaller general aviation use airports.

In response to existing and forecast aviation demand generating a significant flow of air traffic in the study area, the FAA is examining alternative ways to modify air traffic routes and procedures to avoid degradation of safety, improve efficiency, and meet future traffic demands. The airspace redesign team is using sophisticated modeling tools to develop viable air traffic control (ATC) alternatives to current operations. The FAA will examine methods that will take advantage of new and emerging ATC technologies, improved performance characteristics of modern aircraft, as well as improvements in navigation capabilities. The proposal will address the merits of a 4-corner post concept with consideration of an additional downwind. The project is not associated with any airport development projects or construction of any physical facilities.

As part of the airspace redesign effort, the FAA will provide detailed analyses that will be used to evaluate the potential environmental impacts in the study area. During scoping, and upon publication of a draft EIS and a final EIS, the FAA will be contacting and coordinating with federal, state, and local agencies, as well as the public, to obtain comments and suggestions regarding the EIS for the proposed

project. The EIS will assess impacts and reasonable alternatives including a "no change" alternative pursuant to NEPA; FAA Order 1050.1, Policies and Procedures for Assessing Environmental Impacts; DOT Order 5610.1, Procedures for Considering Environmental Impacts; and the President's Council on Environmental Quality (CEQ) Regulations implementing the provisions of NEPA, 40 CFR Parts 1500-1508, and other appropriate Agency guidance.

**Public Scoping Process:** The FAA will use the scoping process as outlined in the Council on Environmental Quality (CEQ) Regulations and guidelines to facilitate public involvement.

Concerned individuals and agencies are invited to express their views either in writing, or by providing oral comments at a scoping meeting. The purpose of a scoping process and scoping meetings are: (1) To provide a description of the proposed action, (2) to provide an early and open process to determine the scope of issues to be addressed and to identify potentially significant issues or impacts related to the proposed action that should be analyzed in the EIS, (3) to identify other coordination and any permit requirements associated with the proposed action, (4) to identify and eliminate from detailed study those issues that are not significant or those that have been adequately addressed during a prior environmental review process.

The FAA has scheduled three public scoping meetings. Each meeting will be held from 7 p.m. to 9 p.m. at sites listed below. Each of the meetings will begin with an overview of the project (7 p.m.-7:30 p.m.) and will be followed by an informal open house period (7:30 p.m.-9 p.m.) The open house portion of each public scoping meeting will include redesign displays and graphics and will provide an opportunity for one-on-one interaction between the representatives of the FAA and the general public. Comments will be received via court reporter or written comment forms throughout the duration of the meeting. Formal comments for the record will not be accepted via E-mail. Meeting dates and locations are:

- March 18, 2003—Marriott City Center, Salt Lake City, UT.
- March 19, 2003—Marriott Hotel, Provo, UT.
- March 20, 2003—Marriott Hotel, Ogden, UT.

In accordance with NEPA coordination requirements, the FAA has scheduled one meeting that will be dedicated primarily to federal, state and local agency staff, and Native American