

Statement of Understanding

Plaquemines and Jefferson Parishes and the United States Navy

August 11, 2010

PREAMBLE

Representatives of the U.S. Navy, Naval Air Station Joint Reserve Base New Orleans, and the governments of Jefferson and Plaquemines Parishes, stakeholders and residents together comprising the Joint Land Use Study Technical and Policy Committees formed on February 19, 2010 have reached an UNDERSTANDING THAT:

- The meetings and discussions engaged in by the Joint Land Use Study Technical and Policy Committees represent the most frank and in-depth dialogue concerning encroachment and incompatible development to have ever taken place between the Navy and the Parishes. The Navy and the Parishes will engage in a continuing dialogue with respect to encroachment upon military installations, and with respect to any new or evolving regulations and instructions concerning encroachment.
- As part of the process described below, from this point forward any person, persons or those persons representing any group or organization proposing development that is incompatible with Chief of Naval Operations Instruction 11010.36B of 19 December 2002, *Air Installations Compatible Use Zones (AICUZ) Program*, or otherwise encroaches upon NAS JRB New Orleans and its environs, will be asked by the Parish Governments to contact Navy officials so that:
 - NAS JRB New Orleans' mission and its importance to national defense, homeland security, and regional emergency response activities can be explained.
 - A description or demonstration of the hazards created by military operations with respect to the type of structures proposed can be given as it relates to noise and accident potential zones (APZs).
 - If no other recourse is available, a request can be made by the Navy for a voluntary reconsideration of the type of development proposed.
- The Navy and the Parish Governments understand the value of developing a process whereby the Navy will be informed of, and afforded an opportunity to comment upon, *all* development that may be incompatible with military operations.

1. With regard to the responsibilities of, and the actions by, the Navy and the Parish Governments regarding the effort to restrain encroachment and incompatible development:

- The Navy and the Parish Governments both understand that any opinion expressed by the Navy concerning proposed development must be wholly in accordance with Chief of Naval Operations Instruction 11010.36B of 19 December 2002, *Air Installations Compatible Use Zones (AICUZ) Program*.
- The Parish Governments understands the Navy position is now, and has been, that residential development in areas of 65 dB DNL and greater and in accident potential zones (APZs) is discouraged and that this position is in accord with the AICUZ program.
- The Navy acknowledges that under Louisiana law, property owners may not be denied reasonable use of their property. The responsibility for enacting, amending, repealing and waving development requirements promulgated through local zoning ordinances, subdivision regulations, building codes and associated laws lies solely within the individual Parish Governments, based upon subject to statutory and constitutional requirements as outlined in the Louisiana Revised Statutes (as amended).
- Greater effort will be made to educate the public, in general, and property owners, in particular, regarding the difference between average noise designations shown on the AICUZ map and event noise experienced in real life. The Navy and the Parish Governments agree to work collaboratively to assist each other in matters of technical information and instruction in this regard.

- Greater effort will be made to educate the public, in general, and property owners, in particular, regarding the accident potential zones (APZs) and their potential impacts on the citizenry. The Navy and the Parish Governments agree to work collaboratively to assist each other in matters of technical information and instruction in this regard.

2. With regard to the U.S. Navy and NAS JRB New Orleans:

- NAS JRB New Orleans officials have discouraged incompatible development around the station since at least the 1960s. Navy policy, as published in pertinent instructions, has also consistently discouraged incompatible development around air installations since before the Noise Control Act of 1972.
- During the 1950s, the Navy and the federal government undertook a program to buffer the installation from encroachment by publicly purchasing property outright and by purchasing and acquiring avigation easements on surrounding properties in the form of unobstructed passage rights.
- With respect to accommodating the sensibilities of the surrounding communities, NAS JRB New Orleans officials have voluntarily modified flight procedures.
- NAS JRB New Orleans is a pre-eminent Navy installation. It is also now, however, a vital component in the architecture of the Defense Department's joint service method of operational planning and execution and in the newly-emerging inter-agency approach to meeting homeland defense requirements.

3. With regard to Jefferson and Plaquemines Parishes and the southern and western properties outside of the NAS JRB New Orleans' property boundary:

- Both the Navy and the Parishes understand the importance of this property in any discussion of encroachment in two key regards:
 - This area is largely undeveloped and thus presents the best opportunity to prevent, to the greatest degree possible, further incompatible development; and
 - This area lies beneath airspace commonly used by Navy aircraft arriving and departing from NAS JRB New Orleans, lies beneath those areas referred to as Accident Potential Zones (APZ), and also has some of the highest noise exposure levels surrounding the Base.
- The Navy and the Parish Governments acknowledge that, according to AICUZ restrictions, residential development in areas of 65dB DNL and greater and accident potential zones (APZs) is not compatible with airfield operations.
- The Navy and the Parish Governments acknowledge that preserving undeveloped property from incompatible land uses is a major priority. Any initiatives of other agencies that advance mutually beneficial outcomes, including environmental protection and wetland mitigation, should be vigorously explored.

4. With regard to other AICUZ-related issues:

- The Navy and the Parish Governments recognize that "by-right" development, e.g., development allowed without the approval by the Parish Council, sometimes results in development that is incompatible with military operations.

- The Navy acknowledges that the Parish Governments have certain legal responsibilities regarding “by-right” development (i.e., development that is allowed without *specific* approval of the Parish Council) and that, in such cases, review and approval is ministerial, not discretionary. In those cases in which development is not “by-right,” thus requiring approval of the Parish Council, the Navy also acknowledges that the Parish must permit a reasonable use of the property.
- The Navy and the Parish Governments recognize that transportation is an issue of significant concern. Future development contemplated in the area surrounding the NAS JRB New Orleans will require a range of alternative transportation improvements. The Navy and the Parish Governments believe that strategic growth management plans should focus on three approaches concerning transportation:
 - Public facility improvements are prioritized and implemented as quickly as possible per available federal, state and local funds so that adequate public facilities and services are available before, during and immediately after development to accommodate movement of vehicles.
 - Growth and development are oriented to appropriately designated areas; and
 - The public and the Navy are effectively involved in any planning process, as described herein.