

# CITIZENS OF EBHEY'S RESERVE

*protecting our land, homes, and health*

July 13, 2020

Representative Adam Smith  
Chair, House Armed Services Committee  
2264 Rayburn Office Building  
Washington DC 20515

Dear Representative Smith,

As chair of the House Armed Services Committee, we (Citizens of Ebey's Reserve, COER) call to your likely interest the enclosed white paper revealing a potential need to initiate a review of the Department of Defense's Air Installation Compatible Use Zone (AICUZ) program. During this devastating covid crisis, non-military sectors of our economy are stretching our tax dollars significantly, and as such, we are sure you want to exercise judicious scrutiny of the military budget to eliminate any wasteful programs.

The AICUZ program is intended to effectively inform and guide compatible long-range planning for land-use development in areas affected by military aircraft operations. Instead of informing land-use planning, the 2005 AICUZ for Naval Air Station Whidbey Island (transition from Prowlers to Growlers) unacceptably misled the central Whidbey Island community.

The AICUZ informed and assured home buyers and planners of *limited use* of the Outlying Field (OLF) in Coupeville. Development and investments were made consistent with that assurance. Then, 14 years later the Navy's Record of Decision dishonored that assurance by increasing carrier landing practice at OLF fourfold. The community was dumbfounded and thrown into turmoil. The decision made a mockery of the AICUZ and ignored thousands of public comments on the draft EIS that strenuously opposed implementation of the EIS preferred option. In so doing, the Navy revealed a cavalier regard for the AICUZ, and no concern over the fact that it (1) misled the community it was supposed to inform, (2) compromised community health and well being, (3) fomented unfortunate and avoidable controversy and lawsuits, and (4) created economic hardships for owners of homes and business.

We suspect this sort of capriciousness is not an uncommon problem within the AICUZ program. As such, we are bringing our experience and concern to your attention because of your major role in controlling the military budget and eliminating wasteful programs.

A single EA-18G Growler over its 9000-hour service life costs U.S. taxpayers \$426 million or \$70 billion for the fleet of 148 aircraft, all based at NASWI (DOD data). The cost per flight hour is an incredible \$47 thousand. At that significant level of taxpayer expense, we must expect reliable, efficacious planning to secure an actually suitable location for Growler pilot training.

Thank you for your dependable attention to this concerning matter.

Respectfully,

Robert L. Wilbur, President, for COER Board of Directors

cc: The Honorable Patty Murray  
The Honorable Maria Cantwell  
The Honorable Rick Larsen  
Washington Governor Jay Inslee  
Island County Commission Helen Price Johnson  
Island County Commission Janet St. Clair  
Coupeville Mayor Molly Hughes

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# The Misleading 2005 AICUZ for Naval Air Station Whidbey Island

– A White Paper Prepared by Citizens of Ebey's Reserve –

– July 13, 2020 --

**The AICUZ Program.** Each Navy and Marine Corps air installation has its individual Air Installation Compatible Use Zone (AICUZ) plan. The AICUZ program's mission is to ensure that military bases do not create conflicts with surrounding civilian land uses. Each AICUZ is to clearly and forthrightly detail its intended long-range plans for activities that could impact communities. These extensive and costly planning guides analyze aircraft noise, accident potentials, land use compatibility, operational alternatives, and recommendations to avoid incompatible development in the surrounding area. As stated in <https://www.marines.mil/Portals/1/Publications/MCO%2011010.16.pdf> , page 1-1:

*THE AICUZ PROGRAM OBJECTIVES. The purpose of the AICUZ program is to achieve compatibility between air installations and neighboring communities by:*

- a. Protecting the health, safety, and welfare of civilians and military personnel by encouraging land use which is compatible with aircraft operations;*
- b. Protecting Navy and Marine Corps installation investment by safeguarding the installation's operational capabilities;*
- c. Reducing noise impacts caused by aircraft operations while meeting operational, training, and flight safety requirements, both on and in the vicinity of air installations; and*
- d. Informing the public about the AICUZ program and seeking cooperative efforts to minimize noise and aircraft accident potential impact by promoting compatible development in the vicinity of military air installations.*

The most recent AICUZ for Naval Air Station Whidbey Island (NASWI) demonstrates how the Navy failed to meet all four of those objectives. It raises a troubling question: Is this well-intended process being widely abused? Is it understood by the DoD as simply a bureaucratic obstacle to be easily overcome yet provide the appearance of working with impacted communities?

**AICUZ for Naval Air Station Whidbey Island:** An AICUZ is supposed to enable local governments, like Island County, to plan and facilitate compatible land-uses that preclude encroachment problems. The purpose of the AICUZ program is to serve as “*a land use planning tool...[that] works **long-term** with local communities to address incompatible land*

uses,” stated Captain Matt Arny, commander of NASWI in a September 2018 Whidbey News Times editorial.

The most recent AICUZ for NASWI was in 2005. The major concern focused on the transition from the EA-6B Prowler to the louder EA-18G Growler aircraft operations, especially the number of extremely loud field carrier landing practice (FCLP) operations. The AICUZ clearly held that there were to be 18,200 annual FCLP operations for Ault Field and 6120 at Outlying Field Coupeville (OLFC)<sup>1</sup>. Island County, the City of Oak Harbor, the town of Coupeville, and Whidbey Island residents relied on those numbers in good faith when facilitating compatible development proximate to the flight paths.

Over the ensuing 14 years residential, commercial, and public facilities development proceeded generally consistent with the 2005 AICUZ operational numbers. In Coupeville that included new homes, the Island County Transit depot, Ryan’s House Hope for Kids, a major olympic swimming pool upgrade, a major new wing at Whidbey Health, and medical offices, to name just a few. Island County planners never considered down-zoning or implementing “accident potential zones” (APZs) or withholding building permits and restricting development in the OLFC area because at 6120 operations the AICUZ did not call for APZs.

In some portions of the OLFC area, however, previously established residences were not compatible with the AICUZ guidelines. New property buyers in those areas, if not already aware of the noise levels and frequency of operations, were directed in their closing papers to expect occasional jet noise. For novices, that disclosure was often deficient in effectively informing buyers of the noise severity. The ineffective notice, and the louder EA18-G Growler aircraft, fomented controversy, especially in the Coupeville area where the community was divided among those who were willing to tolerate the sporadic jet noise intrusion and those who found the noise impossible—i.e., “*unfit for human occupation*,” which is the correct legal term.<sup>2</sup>

Belief in the 6120 operations ceiling for Coupeville was further supported by the Navy’s recent 20-year history of use, which averaged 6080 operations from 2005 to 2018. Hence, residents and businesses were conditioned by

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<sup>1</sup> AICUZ Study Update for Naval Air Station Whidbey Island’s Ault Field and Outlying Field Coupeville, Washington. Final Submission. March 2005. Table 3-3, page 3-7.

<sup>2</sup> In discussing the Concord jet, the noise for “people who live in the noise-impacted area around Kennedy Airport will be such the Department of Housing and Urban Development labels their homes as ‘*unfit for human habitation*’...and therefore ineligible for any kind of federally assisted mortgages.  
[https://books.google.com/books?id=AQokAAAAMAAJ&pg=PA203&lpg=PA203&dq=unfit+for+human+habitation+a+ircraft+noise&source=bl&ots=Q38l43Io-8&sig=ACfU3U1zUCq\\_OIIXcGwHR6kPRounouHa2w&hl=en&sa=X&ved=2ahUKEwin8KCZvsXqAhUZFjQIHQijAfYQ6AEwAHoECAoQAQ#v=onepage&q=unfit&f=false](https://books.google.com/books?id=AQokAAAAMAAJ&pg=PA203&lpg=PA203&dq=unfit+for+human+habitation+a+ircraft+noise&source=bl&ots=Q38l43Io-8&sig=ACfU3U1zUCq_OIIXcGwHR6kPRounouHa2w&hl=en&sa=X&ved=2ahUKEwin8KCZvsXqAhUZFjQIHQijAfYQ6AEwAHoECAoQAQ#v=onepage&q=unfit&f=false)

experience to trust that operations would hold at about 6,000 annually. However, in 2011 and 2012 the Navy did grossly exceed its operational assurance by conducting over 9000 operations each year. That prompted the formation of a citizens activist group, Citizens of Ebey's Reserve, who in August 2015 took the Navy to court to seek injunctive relief from the Growler noise in Coupeville.

In those proceedings the Navy reinforced and acknowledged its commitment to 6120 operations at OLFC and made no mention of any intent to increase operations. That AICUZ commitment was one of the main reasons the judge denied the relief sought. In addition, the Court was persuaded by the 2005 AICUZ and accompanying Environmental Assessment (EA) conclusion that the Growler aircraft would produce less noise than the Prowler aircraft it was replacing and, hence, reduce noise levels at OLFC. That Navy argument was an obfuscation<sup>3</sup> and fabrication<sup>4</sup> that enabled the Navy to hide reality and misinform the Coupeville community that noise levels would be less noise, when in fact it was more.

**AICUZ Upended:** As if that misdirection wasn't bad enough, in 2018 the Navy dishonored its 2005 AICUZ commitment. It's Record of Decision increased OLFC operations fourfold from 6100 to 24,000 annual FCLP operations, nullifying two decades of actual OLFC usage history and shredding any planning value the AICUZ may have had. The Navy's new idea transferred nearly all FCLPs from Ault Field to OLF, while at Ault Field FCLPs were dropped from 18,200 to just 5,900. The Central Whidbey community reacted in shock, anger, confusion, and disbelief, and two NEPA lawsuits were promptly initiated, one by Citizens of Ebey's Reserve and one by the State of Washington (they are now merged by the court). An additional lawsuit under the Endangered Species Act is under consideration and a number of tort claims are in process.

The Navy's decision now requires it to recommend APZs encompassing hundreds of residences around OLF. Coupeville's high school and middle school and a large daycare center are less than several hundred yards from the APZ boundary. Note that recent F/A-18 crash in Virginia Beach was similarly close to but outside the APZ.<sup>5</sup>

Hence, the Navy's decision made a mockery of the 2005 AICUZ, revealing it as a plan that

1) misled the public and the court,

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<sup>3</sup> As noted in Navy correspondence from Kevin Slates to Steve Iselin (March 23, 2015), "*As you know we are currently going through NEPA process to increase number of Growlers as well as address Coupeville FCLP training. They are louder than Prowlers....They had sued us about year ago and when we realized we'd grossly exceeded our NEPA numbers for FCLP training at Coupeville.*" (EIS Administrative Record GRR00081534)

<sup>4</sup> The 2005 AICUZ selected the highest recent Prowler operations year at OLF (CY 2003) to compare to the projected 6120 operations anticipated for Growlers. At 7682 operations 2003 was the only year of the six preceding years that exceeded the 6120 AICUZ-projected operations. That, and obfuscation of Prowler vs. Growler noise, facilitated a bogus *no-impact* finding (<https://citizensofeyebeyreserve.com/legal-files/> under October 2015 White Paper; see page 14).

<sup>5</sup> A McDonnell Douglas F/A-18 Hornet of the USN crashed on take-off from Naval Air Station Oceana, Virginia Beach, Virginia. Both crew ejected. The aircraft crashed into a block of apartment complexes.

- 2) wasted County dollars spent in crafting appropriate land uses and continues to provoke major community disruption and real estate losses that will impact the county tax base,
- 3) revealed the Navy's disregard for the private and public monies spent in developing properties under AICUZ guidance, and
- 4) changed the culture of Central Whidbey Island by disenfranchising property owners, businesses, tourism, wildlife, and our historic properties.

## **AICUZ Fails to Meet Objectives**

We examine here how the Navy reprehensibly failed to achieve not one of its four above-stated goals:

*a. Protecting the health, safety, and welfare of civilians and military personnel by encouraging land use which is compatible with aircraft operations.*

Goal failed: The AICUZ obfuscated noise data and cherry-picked the most favorable comparison year (2003; see footnote 4 above) to facilitate a false conclusion that the transition from Prowlers to Growlers would lessen the noise. That was misleading and damaging enough. Then the 2018 decision to ignore the AICUZ and quadruple noise exposures has and will produce greatly increased impacts on civilian health, safety, and welfare, resulting in damage to rather than protection of health, safety and welfare.

*b. Protecting Navy and Marine Corps installation investment by safeguarding the installation's operational capabilities.*

Goal failed: The Navy's violation of its 2005 AICUZ misled the Whidbey Island community fomenting anger, deep resentment, discord, and two NEPA lawsuits. The duped public was left with the perception that Navy does what it wants when it wants, even in the face of other options that would greatly reduce the conflict. These reactions to being misled have created discord that undermines protecting and safeguarding the installation and its operations. Historically, base closures, operational limits and changes are known to be strongly related to community dissonance and loss of support, as recognized on page 8 of the Navy's REPI proposal for NASWI: "*Incompatible development of the proposed FY17 projects could immediately and directly impact the number of noise complaints and potentially affect operation levels.*"<sup>6</sup>

*c. Reducing noise impacts caused by aircraft operations while meeting operational, training, and flight safety requirements, both on and in the vicinity of air installations.*

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<sup>6</sup> Exported from REPI proposal system on August 29 2018 (see EIS Administrative Record, starting on page GRR00142415)

Goal failed: Manufacturing a faux AICUZ/Environmental Assessment conclusion that Growler noise impacts would be less than Prowler impacts does not actually do anything to reduce noise impacts. The public saw through that AICUZ spin and learned as well by simple exposure to Growler noise.

*d. Informing the public about the AICUZ program and seeking cooperative efforts to minimize noise and aircraft accident potential impact by promoting compatible development in the vicinity of military air installations.*

Goal failed: The public was informed by the AICUZ. The problem is that it was misinformation. Hence, the AICUZ promoted incompatible land-use development in the vicinity of the OLF. Now, years later it seems to think it can undo what it had promoted. As stated on page 8 of the Navy's REPI proposal for NAS Whidbey Island: "*In either case the market for property in the NASWI priority areas has taken sharp upswing in the past 18 months and narrow window of time exists to prevent incompatible land uses in order to ensure the viability of current operation levels, or allow for increased operations in the future as determined by EIS.*" <sup>7</sup>

## **Discussion and Conclusion**

The preeminent International Standards Institute (ISO) in its judicious examination of noise impacts<sup>8</sup>, noted the planning process needed (page 11).

Noise limits are set by responsible authorities on the basis of knowledge about the effects of noise on human health and well-being (especially dose-response relationships on annoyance), taking into account social and economic factors.

Such limits depend on many factors, such as the time of day (e.g. day, evening, night, and 24 hour), the activities to be protected (e.g. outdoor or indoor living, communication in schools, and recreation in parks), the type of sound source, and the situation (e.g. new residential developments in existing situations new industrial or transportation installations near existing residential areas and remedial measures in existing situations).

The 2005 AICUZ was prepared to forestall encroachment by the community. Instead the Navy mislead development interests and then years later decided that it should encroach on the development it had green-lighted. The Navy cannot now cogently argue to retroactively reverse to the 1980s.

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<sup>7</sup> Exported from REPI proposal system on August 29 2018 (see EIS Administrative Record, starting on page GRR00142415)

<sup>8</sup> Acoustics description--measurement and assessment of environmental noise--Part 1: Basic quantities and assessment procedures. ISO 1996-1: 2016(E) [EIS Administrative Record, page GRR00091437]

The Navy knows that, yet in an internal Navy June 26, 2018, memo describing a conversation with Governor Inslee, Christopher Gray reported, "*I further highlighted the tremendous investments in both Ault Field and Coupeville and that the Navy's way ahead will return our presence back to level commensurate with operations in the 1980s*" [EIS Administrative Record, page GRR00138157]. The 1970s and 1980s were a long time ago and much has changed, including awareness of health impacts related to toxic noise levels. No agreement established those prior-century operational levels. Those Vietnam era operations were retired and forgotten years ago, replaced by the 2005 AICUZ and two decades of OLF use baked in at about 6000 annual operations, as validated by the Navy:

*Many goals of the 2005 AICUZ and 2008 and 2012 EAP5 have already been implemented in the Comprehensive Plans as well as the Building and Zoning Codes of affected local jurisdictions. Protections have been incorporated into the corresponding local land use control...Current environmental documents permit 6120 FCLP operations per year...FCLP Training at OLF Coupeville Priority Area 1b has been limited to 6120 annual operations due to noise complaints and legal action."*<sup>9</sup>

While it may be argued that the planned operational numbers in the AICUZ are not an actual *commitment* per se, that very argument renders the AICUZ absurd. What good is a costly and technically ornate planning document if its foundation is willy-nilly and has no lasting credibility? What possible good comes to the Navy by wasting taxpayer dollars to mislead a community with a plan that fails its mission so drastically and capriciously?

A single EA-18G Growler over its 9000-hour service life costs US taxpayers \$426 million or \$70 billion for the fleet of 148 aircraft, all based at NASWI (see Table 1 below). The cost per flight hour is an incredible \$47 thousand. At that significant level of taxpayer expense, we must expect reliable and efficacious planning to secure an actually suitable location for Growler pilot training. A sham process that misleads the trusting public and misdirects land use is unacceptable whether in this one example or on a wider national scale. This NASWI debacle raises potentially serious questions about the credibility and value of the AICUZ program and points to a need for congressional review and possibly greater oversight.

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<sup>9</sup> As stated on Navy page 7 of the Navy's REPI proposal for NAS Whidbey Island; exported from REPI proposal system on August 29 2018 (EIS Administrative Record, starting on page GRR00142415)

**Table 1.--Costs for EA18-G Growlers, based on FY 2017 U.S. government data.**

<b>ITEM</b>	<b>COST (US\$)<sup>1</sup></b>
<b>Capital (Purchase) Costs</b>	
<b>Total Growler acquisition cost <sup>1-a, 2</sup></b>	<b>14,474,844,000</b>
<b>Cost per Growler (total ÷ 148 aircraft) <sup>2</sup></b>	<b>97,803,027</b>
<b>Cost per flight hour (9000-hour service life) <sup>1-b</sup></b>	<b>10,867</b>
<b>Operation and Support (O&amp;S) Costs</b>	
<b>Total O&amp;S cost</b>	<b>48,459,200,000</b>
<b>Cost per Growler (total ÷ 148 aircraft) <sup>1-c</sup></b>	<b>327,427,020</b>
<b>Cost per flight hour (9000-hour service life)</b>	<b>36,381</b>
<b>Disposal Costs</b>	
<b>Total disposal costs <sup>1-d</sup></b>	<b>55,100,000</b>
<b>Per Growler (total ÷ 148 aircraft)</b>	<b>372,297</b>
<b>Per flight-hour (9000-hour service life)</b>	<b>41</b>
<b>Total Service-Life Costs</b>	
<b>Total service-life costs for 148 Growlers</b>	<b>62,989,144,000</b>
<b>Total cost per Growler (total ÷ 148 aircraft)</b>	<b>425,602,422</b>
<b>Total cost per flight-hour (9000-hour service life)</b>	<b>47,290</b>

<sup>1</sup> Data source: Selected Acquisition Report, RCS:DD-A&(Q&A)T823-378 for EA-18G Growler Aircraft (EA-18G) as of FY 2017 Presidents Budget (final report), where a = page 17, b = page 37, c = page 38, and d = page 39.

<sup>2</sup> Total Growler acquisition cost for 148 US Growlers + 12 Australian Growlers was \$15,648,400,000 (see page 17 of the source). That included \$ 2,419,300,000 for Research Development Test & Evaluation (RDT&E), which is funding is used to pay the operating costs of dedicated activities engaged in the conduct of research, development, and test and evaluation efforts performed by a contractor and/or government organization. Hence, each of the 160 Growlers cost \$97,803,000, and the total for the 148 US Growlers was the per-Growler cost times 148.