

**Key West International Airport
Ad-Hoc Committee on Airport Noise**

Agenda for Tuesday, June 5th, 2018

Call to Order 2:00 pm Harvey Government Center

Roll Call

- A. Review and Approval of Meeting Minutes
 - 1. For March 6th, 2018
- B. Ad-Hoc Committee Members
 - 1. Welcome new member Nathaniel (Nat) Harris as Community Representative
 - 2. Discussion of potential nominees for Alternate Aviation Representative
- C. Discussion of NIP Implementation
 - 1. Status of Construction of "Pilot Project" Building B, Floors 1-2 (17 units), and 1 SF Home
 - 2. Final Bid Document Preparation and Bidding of KWBTB Building B, Floors 3-6
- D. Other Reports:
 - 1. Noise Hotline and Contact Log
 - 2. Airport Noise Reports
- E. Other Discussion

ADA ASSISTANCE: If you are a person with a disability who needs special accommodations in order to participate in this proceeding, please contact the County Administrator's Office, by phoning (305) 292-4441, between the hours of 8:30 a.m. - 5:00 p.m., no later than five (5) calendar days prior to the scheduled meeting; if you are hearing or voice impaired, call "711".

**KWIA Ad-Hoc Committee on Noise
March 6th, 2018 Meeting Minutes**

Meeting called to order by Commissioner Dany Kolhage at 2:00 P.M.

ROLL CALL:

Committee Members in Attendance:

Commissioner Danny Kolhage
Peter Horton, via telephone
Bill Gordon
Marlene Durazo
Dr. Julie Ann Floyd
Harvey Wolney
Nick Pontecorvo

Staff and Guests in Attendance:

Don DeGraw, Monroe County Director of Airports
Deborah Lagos, DML & Associates
Steve Vecchi, THC
Rick Herz, THC
Nat Harris
Brian Corbett, KWBTS

A quorum was present. Commissioner Dany Kolhage chaired the meeting.

Review and Approval of Meeting Minutes for the December 5th, 2017 Ad Hoc Committee Meeting

Commissioner Dany Kolhage asked if there were any comments or corrections to the minutes. Peter Horton mentioned that Danny Kolhage chaired the December meeting, rather than Don DeGraw. Marlene Durazo made a motion to approve the minutes, as amended; Harvey Wolney seconded the motion. The minutes were approved as amended.

Ad-Hoc Committee Members

Nick Pontecorvo was "promoted" from Alternate to Regular Aviation Representative. Marlene Durazo made a motion to nominate Nat Harris as Community Representative, and Theresa Calhoun as Alternate Aviation Representative. Harvey Wolney seconded the motion. The motion was unanimously approved.

KWIA Ad-Hoc Committee on Noise

March 6th, 2018 Meeting Minutes

Discussion of NIP Implementation

Steve Vecchi provided a Power Point Presentation summarizing the progress and challenges of the NIP "Pilot" Project (KWBTTS Building B, Floors and one SF home), as well as the status of the project for Preparation of Final Bid Documents & Bid Process for KWBTTS Building B, Floors 3-6. A schedule for each project, included in the agenda package, was reviewed with the committee.

Brian Corbett commented that the construction workers are polite, and the work is of high quality.

Other Reports

Noise Hotline and Contact Log

Deborah reviewed the four calls received on the hotline.

Airport Noise Report

Deborah mentioned that the 2017 annual index of ANRs was included in the agenda package. The following articles were mentioned: Volume 30, Number 3, "Norway's Short-Haul Flights to be All-Electric by 2040," and Volume 30, Number 2, "Dose/Response Curves on Annoyance Have Shifted Over Time, Study Shows." There were also several articles regarding the FAA working with cities to work out NextGen flight path issues.

Any Other Discussion

Don DeGraw was questioned regarding the nighttime runway work, and the completion of the additional 270 feet for take-off on Runway 9. He responded, saying 100% of the paving and concrete work is finished, however work will continue through May. Around the end of March or early April, the runway will be grooved. It will take seven nights to complete.

Harvey Wolney moved to adjourn the meeting, seconded by Dr. Julie Ann Floyd. The meeting adjourned at approximately 2: 53 pm.

County of Monroe
The Florida Keys



BOARD OF COUNTY COMMISSIONERS

Mayor David Rice, District 4
Mayor Pro Tem Sylvia J. Murphy, District 5
Danny L. Kolhage, District 1
George Neugent, District 2
Heather Carruthers, District 3

May 21, 2018

Ms. Vicki Marino
Kenmar General Contracting, LLC
1209 Truman Avenue, Unit #1
Key West, FL 33040

Subject: Substantial Completion
Noise Insulation Program Pilot Project
Key West International Airport
Monroe County Project No. – GAKAP152

Ms. Marino:



The work identified in the contract documents for the above contract dated September 27th, 2017 has been reviewed and found, to the Program Manager's best knowledge, information, and belief, to be substantially complete. The date of Substantial Completion is April 30th, 2018.

Following Substantial Completion, the Contractor shall correct or remedy all Punchlist items to the satisfaction of the Program Manager and Owner. The Certified Copy of *Program Manager's Substantial Completion Inspection List of Items to be Completed or Corrected (by Unit)*, dated May 14, 2018, submitted by Kenmar General Contracting, was verified by the Program Manager on May 16, 2018, and is acceptable documentation that this requirement has been met.

The Contractor must submit all Change Orders (including Asbestos Abatement) to the Owner's Authorized Program Manager for review and approval by May 31, 2018.

The Contractor will complete or correct the Work as approved by the Owner's authorized Program Manager on the attached list of items by a date to be determined. A list of items to be completed or corrected is attached. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. This list may be amended based on the results of the final inspection. The cost of Work to be completed is approximately \$7,000.00. The cost is less than the retainage amount remaining after Pay Application No. 5 (\$171,330.41).

The Owner and Contractor hereby accept the responsibilities assigned to them in this Substantial Completion:

<u>Kenmar General Contracting, LLC</u> CONTRACTOR (Firm Name)	 SIGNATURE	<u>Vicki Marino, President</u> PRINTED NAME AND TITLE	<u>5/21/18</u> DATE
<u>Monroe County BOCC</u> OWNER	 SIGNATURE	<u>Donald DeGraw, Director of Airports</u> PRINTED NAME AND TITLE	<u>5-21-18</u> DATE

LIST OF ITEMS TO BE COMPLETED OR CORRECTED

1. Procure Drywell hardware (rings and grates)
2. Modify seven (7) Drywells, as directed by Richard Sun on 5/16/18
3. Cap concrete and install rings and grates
4. Repair landscaping



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View Projects (past-projects)



WELCOME

DEC Contracting Group, Inc., a full service, licensed and insured commercial contractor serving the Southwest Florida area.

DEC Contracting Group, Inc. specializes in new commercial construction projects, tenant build – out, retail and business offices, new residential construction, additions and remodels.

We are dedicated to excellence and building a quality project through our commitment to professionalism, customer care and our proven experience and knowledge of the construction industry.

With over 100 years of combined experience in construction supervision, construction management and subcontractor negotiations, DEC Contracting Group, Inc. brings the experience in the industry to every project to meet the expectations of each client from concept through completion.

DEC Contracting Group, Inc. has built a team of professionals with shared visions who take pride in their work and exercise a standard of exceeding client's expectations.

- Innovative
- Professional
- Dependable
- Experienced

"It is not the beauty of a building you should look at; it's the construction of the foundation that will stand the time"- David Allen Coe



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SERVICES

DEC Contracting Group, Inc. takes pride in meeting our client's needs on a project specific basis providing each client with consistent performance for both the private and public sectors.

Our Services include the following:

- General Construction
- Contract Management
- Design-Build
- Green Building / LEED Construction
- Commercial Tenant Build Out
- Residential Home Construction
- Religious Facilities
- Additions
- Remodels
- Retail Construction / Remodels

Please call or [email \(mailto:info@decontracting.com\)](mailto:info@decontracting.com) today for more information about our services and learn more about how DEC Contracting Group, Inc. can assist you with your construction projects.

DEC CONTRACTING GROUP, INC
1560 Matthew Drive, Suite B
Fort Myers, Florida 33907

OFFICE: 239.332.4322

EMAIL: info@decontracting.com
(<mailto:info@decontracting.com>)

GENERAL CONTRACTING
CONSTRUCTION MANAGEMENT
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Key West International Airport Noise Insulation Program
Construction of KW BTS Building B Floors 3-6

SECTION F

PRIME BIDDER'S MINIMUM QUALIFICATIONS

At the time of bid submittal, the Bidder must be properly licensed by the State of Florida to perform the Work as the "prime contractor". The proposed work consists of commercial construction and renovation on floors 3-6 of a 6-story condominium building. In addition, the Bidder must possess the ability to secure 100% performance and 100% payment bonding for the total contract amount.

Due to the project's complexity and scope which include but are not limited to; the renovation of a large occupied residential condominium, the installation of specialized impact rated acoustical window and door products, limited building access and site plan constraints; the Bidder must provide five (5) examples of previously completed projects which reflect the contractor's past performance and demonstrate his/her ability to successfully complete the Key West International Airport Noise Insulation Program Project. Include resumes showing hi-rise building experience of Project Manager and Project Superintendant to be assigned to the project. All project experience shall be proven and verifiable.

The Bidder must be able to show excellent business performance and compliance work history. All Bidders shall submit the Statement of Qualifications as supplementary information to their bid that will document their experience relative to the above minimum requirements. The Statement of Qualifications will be utilized by the Sponsor during the bid review process in the determination of the lowest responsive / responsible bidder.

PRIME BIDDER'S STATEMENT OF QUALIFICATIONS

SECTION I – BIDDER INFORMATION

Name of Bidder: DEC Contracting Group, Inc.

Authorized Representative Name: Douglas R. Masch II

Authorized Representative Title: President

Company DEC Contracting Group, Inc.

Address: 1560 Matthew Drive, Suite B
Fort Myers, Florida 33907

Email: doug@decontracting.com

Business Phone: 239-332-4322 Fax Number: 239-332-0180

Key West International Airport Noise Insulation Program
Construction of KWBTS Building B Floors 3-6

SECTION II – BIDDER CONSTRUCTION PROJECT HISTORY AND EXPERIENCE:

Please complete all lines and add Additional Sheets as Necessary

Project 1 Description:

Project Name & Location: Collier County Sheriffs Sub Station

Project Contact Name and Telephone: Margaret Bishop 239-252-8380

Detailed Description of Project including date of completion and construction value:

Construction of a ground up substation. CMU construction, impact windows, generator, septic system, RO water treatment, metal roof, bullet resistant walls, glazing and doors. Completed January 24, 2018. Contract Amount was \$2,487,449.00

Project 2 Description:

Project Name & Location: Lee County Scale house No. 2 & Fleet Addition

Project Contact Name and Telephone: Mike Avoglia 239-533-8881

Detailed Description of Project including date of completion and construction value:

A second Scale House was added to the Lee County waste to energy plat between inbound and outbound truck lane. This includes construction of a 130 foot free spanning arched roof structure with standing seam metal roof panels, covering new and existing scale houses. Completed May 16, 2017 (4 months ahead of schedule). Contract amount was \$ 1,347,048.

Key West International Airport Noise Insulation Program
Construction of KWBTs Building B Floors 3-6

Project 3 Description:

Project Name & Location: Myakka Cabin restoration, Myakka Florida

Project Contact Name and Telephone: Donald Finkbeiner 580-510-8028

Detailed Description of Project including date of completion and construction value:

Raise five (5) cabins 18' & construct new foundations. Perform structural & exterior building repairs. Demolition, painting, doors & hardware, insulation, hardwood flooring, roofing, mechanical, plumbing, and electrical. Completion date was January 26, 2016. Contract amount was \$827,352.00

Project 4 Description:

Project Name & Location: Sanders Pines & Timber Ridge, Immokalee Florida

Project Contact Name and Telephone: Ted Hoffman 863-673-6814

Detailed Description of Project including date of completion and construction value:

Architect on the interior renovation of 74 units. Scope consisted of metal frames, drywall millwork, interior trim, painting, ceramic tiles, mechanical, plumbing, electrical. Completion date was October 31, 2017. Contract amount was \$2,221,948.00

Key West International Airport Noise Insulation Program
Construction of KWBTS Building B Floors 3-6

Project 5 Description:

Project Name & Location: Youth Haven Shelter for Homeless Teens. Naples, Florida

Project Contact Name and Telephone: Joyce Zirkle 239-774-2904

Detailed Description of Project including date of completion and construction value:

Youth Haven is a nonprofit organization that assists with displaced youth and teens. Construction of the 5,600 SF Shelter for Homeless Teens was completed on time and within budget. The construction consisted of convention construction slab on grade, CMU, tie beams, wood roof trusses, concrete tile roof, impact windows & storefront, exterior finishes of stucco & paint, interior finishes consist of stucco and ceramic tile and luxury vinyl tile. The interior has five (5) bedrooms with individual bathrooms and showers, sitting areas, a study, living room, dining room, staff office and a full kitchen with two (2) ranges, a serving line, island with sink and a small kitchenette area with sink. A new fence was constructed around the existing detention area along with storm water swales throughout the site to assist with water conveyance during the rainy season. Much needed additional parking was added along with repaving of the drive and upgraded striping, parking bumpers, etc. Tropical landscaping was installed around the newly constructed teen shelter. Project was completed December 5, 2017. Contract amount for this project was \$1,609,559.

Use additional pages as necessary.

Key West International Airport Noise Insulation Program
Construction of KWBTB Building B Floors 3-6

SECTION III – BUSINESS PERFORMANCE AND COMPLIANCE

1. How many years has your organization been in business as a construction contracting firm? 4 years
2. Please list the gross dollar amount your firm is currently contracted: \$9,295,970.00
3. Please list your firm's available dollars of credit for this project: \$1,000,000.00
4. Has your firm ever refused to sign a contract on your original proposed bid amount?
- YES NO

5. Has a surety firm completed a contract on your behalf, or paid for completion because your firm was default terminated by the project owner within the last five years?
- YES NO

6. At the time of submitting this qualification form, is your firm ineligible to bid on or be awarded any local, state or federal public works contract, or perform as a subcontractor on any such public works contract?
- YES NO

7. Has the person ever initiated litigation against the county or been sued by the county in connection with a contract to provide services, goods or construction services? (If yes, provide details)
- YES NO

If "YES", provide further explanation using the amplification statement form.

8. At any time in the last five (5) years has your firm been assessed or paid liquidated damages after completion of a project under a construction contract with either a public or private owner?
- YES NO

If "YES", provide further explanation using the amplification statement form, identifying all such projects by owner, owner's address, date of completion of the project, amount of liquidated damages assessed and all other information necessary to fully explain the assessment of liquidated damages.

9. In the last five years has your firm or any firm with which your company's owners, officers or partners were associated, been debarred, disqualified, removed or otherwise prevented from bidding on, or completing any government agency or public works project for any reason? NOTE: "associated with" refers to another construction firm in which an owner, partner or officer of your firm held a similar position.
- YES NO

If "YES", provide further explanation using the amplification statement form.

10. In the past five years has any claim against your firm concerning your firm's work on a construction project been filed in court or arbitration?

Key West International Airport Noise Insulation Program
Construction of KWBTs Building B Floors 3-6

YES NO

If "YES", provide further explanation using the amplification statement form. List the project name(s), date of the claim(s), name of the claimant(s), the court in which the claim was filed, status of claim(s) and a copy of the pleading(s).

11. In the past five years has your firm made any claim against a project owner concerning work on a project or payment for a contract and filed that claim in court or arbitration?

YES NO

If "YES", provide further explanation using the amplification statement form. List the project name(s), date of the claim(s), name of the entity(s) the claim was filed against, the court in which the claim was filed, status of the claim(s) & copy(s) of the pleading(s).

12. At any time during the past five years, has any surety company made any payments on your firm's behalf as a result of a default, to satisfy any claims made against a performance or payment bond issued on your firm's behalf, in connection with a construction project, either public or private?

YES NO

If "YES", provide further explanation using the amplification statement form, including the amount of each claim, the name and phone number of the claimant, the date of the claim, the grounds for the claim, the present status of the claim, and if resolved, method by which claim was resolved.

13. Has your firm ever been required to pay either back wages or penalties for your own firm's failure to comply with Federal Davis-Bacon or State prevailing wage requirements?

YES NO

If "YES", provide further explanation using the amplification statement form. Describe the nature of each violation, identifying the name of the project, date of its completion, the public agency for which it was constructed, the number of employees who were initially underpaid and the amount of back wages & penalties you were required to pay.

14. Has OSHA (Federal and/or State) cited and assessed penalties against your firm for any violations of its safety or health regulations in the last five years?

YES NO

If "YES", provide further explanation and describe each citation in the amplification statement form:

15. Attach evidence of financial responsibility consisting of a statement or report of the Bidder's financial resources and liabilities in accordance with General Provisions Section 20-02.



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Christopher Freeman

Please see Pg. 2 for six story Hotel Construction Info.

Professional Experience:

Superintendent, DEC Contracting Group, Inc.- Fort Myers, Florida

November 2016 – Present

Construction of a 1.4 million Scale House, Fleet Building Addition and Diesel Exhaust Fluid Dispensing System. Project included Site Civil Work, Underground Utilities, Concrete & Masonry, Metal Fabrications, Heavy Gauge Metal Framing, Roofing, Casework & Hardware, Doors & Hardware, Windows and Glass, Flooring, Insulation, Acoustical Ceilings, Painting, Metal Framing, Drywall, Finishes, Specialties, Fire Sprinklers, Mechanical, Plumbing, Electrical, Scale Equipment & Cabling. PROJECT WAS COMPLETED 4 MONTHS AHEAD OF SCHEDULE.

Superintendent, Henning Company's March 2016 – November 2016

Construction of 25,000 sq. ft. industrial addition to an egg hatching facility in Pennsylvania. Project included Site Civil Work, Underground Utilities, Concrete & Masonry, Metal Fabrications, Heavy Gauge Metal Framing, Roofing, Casework & Hardware, Doors & Hardware, Windows and Glass, Flooring, Insulation, Acoustical Ceilings, Painting, Metal Framing, Drywall, Finishes, Specialties, Pre-Engineered Metal Buildings, Fire Sprinklers, Mechanical, Plumbing, Electrical

Superintendent, GATES Construction

May 2014 – December 2015

Construction of a 4,000 sq. ft. Liquor Box addition to a Walmart, 2 Animal Display buildings at the Naples Zoo, Build out of a K-6 Charter School in the City of Naples FL and construction of a 4,000 sq. ft. Pavilion at the Burroughs Historic Home in Ft Meyers FL. Duties included Demo, Owner, and subcontractor meetings, scheduling, project reporting, coordination with inspectors, testing agencies, and architects.

Superintendent, The Douglas Company

February 2013 - March 2014

Renovation of an 8.3 million 41 unit, 5 story apartment building in the City of Detroit. Building was complete demo to structure with roof structure replacement, new elevator and stairways, new site work including utilities and infrastructure, to complete finishes and furnishings. Duties include Owner meetings, Safety meetings, subcontractor meetings, weekly 2 week look ahead review, and management of subs, vendors, coordination of building officials, inspectors, testing agencies and architects.

Superintendent, Ellis Construction, Inc

May 2010- September 2012

Construction of a new Theater arts K-8 School addition on a Belle Chasse Navy Base, K-8 School Addition and remodel of the existing school in New Orleans for the archdioceses. Duties include Owners meetings, Safety

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Meetings, Job Schedules, Coordination of subcontractors and vendors, Meeting with Building Officials, Inspectors, Testing companies, Architects and Engineers, 2 week look ahead, Daily reporting, Job is a pile supported grade Beam Construction with a steel Skeleton and brick veneer.

Superintendent, Sachse Construction

October 2004 - July 2009

Complete construction of Ground up buildings including multiple Walgreens (Michigan and Florida) 15,000 Sq. Ft Orvis (Roseville CA) Festival Marketplace Gas Station Convenience Store & Car Wash (Buckeye AZ), McDonalds, and build outs of Sur La Table, 2 Brooks Brothers (Downtown Chicago) and Office clients. Duties included: Owner/Client Meetings, Subcontractor Meetings, Safety Meetings, Job Schedules via Project, Job reporting, 2 week look aheads, Writing Change orders, supervision of all subcontractors and vendors, Meeting with Building Officials, Inspectors, Health Depts. DOT's, SWPPP and Environmental Depts. Coordinating with Architects and Engineers.

Superintendent, Gleason Construction Co., Inc.

February 2004-September 2004

Complete construction of a Walgreens in Jackson, MI. (Including Demo of an Auto Dealership). Duties included job reporting, safety meetings, supervision of all subcontractors and vendors including all site work and Building Construction, coordination with all Building Officials and Inspectors.

Superintendent, Mid-Continent Construction

November 1999 – January 2004

Complete construction of a Hilton Garden Inn Chesterton IN, Holiday Inn and Suites Convention Center (202 room 6 story) in Tinley Park and a TGIF restaurant. Duties included helping secure bids, complete supervision of subcontractors, job meetings, safety meetings, CPM schedule, coordination with owners, municipalities, FF and E and Hotel operations, scheduling inspections and providing punch lists to subs.

Phone Number 708-342-7500 President Alan Rozenweig Email arozenweig@midcontinentdevelopment.com

Superintendent, Capital Construction, Bergman Construction, Bass Construction

January 1998 – November 1999

Construction of retail stores from demo to site work including a ground up of a Bed, Bath and Beyond, build out of Fitness Experience, Famous Footwear, Marshalls, Chicos and multiple box build outs. Ground-up construction of Texas Roadhouse (Champagne IL) and Wafflehouse (Kansas, City KS). Duties included job meetings, job reporting, coordination of subcontractors, vendors, owner reps, inspectors to a complete turn-key operation.

Superintendent, Mid Continent Construction

September 1994 – January 1998

Complete construction of 4 Cracker Barrel Restaurants, Cheddars Restaurant, A Corporate Business Park, Holiday Inn and Suites in Bolingbrook IL. Duties included: Owner meetings, subcontractor meetings, supervision of all subcontractors and vendors including FF and E and coordination with operations staff, monitoring of all site work and building construction.



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Owner/General Contractor Owner

September 1991 – September 1994

General contractor doing light commercial and residential remodeling in Elkhorn WI. Jobs included remodeling of a lumberyard, decks, kitchens, bathrooms, additions and garages.

Superintendent, Fischer Development

January 1990 – August 1991

Complete Construction of Gap, Gap Kids, and Banana Republic retail stores. Duties included: supervision of subcontractors, layout, supervision of union carpenters and laborers, and coordination with store personnel, job reporting, scheduling and hands-on carpentry supervision.

Superintendent, Cardinal Industries

January 1987 - December 1989

Complete construction of Knights Inn Motels, Arborgates, and apartment complexes from ground up. Duties included bidding, draw requests, budgets, schedules, supervision of subs and vendors, layout and cash flow.

Superintendent, Various Contractors

May 1984 – January 1987

Construction superintendent projects including Domino Pizza Store build outs on the East Coast, All Season Resort Construction including cabins, roads, campground amenities, and underground installation.

Carpenter, Multiple Contractors

January 1977 to May 1984

Worked as both union and non-union carpenter on projects such as a new car dealership, a bus garage, sewage treatment plant, bank renovation, football stadium, hardwood floors, coal conveyor at a power plant, office remodels and welding of steel for foundations and steel buildings.

Education:

Jackson Community College, Certificate Business Development 1990 to 1990

Jackson Community College, Certificate Climate Control Heating, Ventilation, Air Conditioning and Refrigeration Engineering Technology/Technician 1983 to 1984

Jackson Community College Carpenter Apprenticeship 1978 to 1980

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Cabot L. Dunn Jr.

Please see Pg. 2 for 11 Story Window and Door Replacement Info.

Work Experience:

Project Manager/ Superintendent, DEC Contracting Group, Inc. – Fort Myers, Florida
March 2014-Present

- All phases of estimating, supervision and project management.

Project Manager/Estimator, Lodge Construction, Inc. - Fort Myers, Florida
1988-2014

- Responsible for the day-to-day operations of the company, marketing, estimating and the management of ongoing construction projects.
- Express interest in upcoming projects for bid.
- Work closely with the owner on estimating, compiling technical merit documents and submission of RFQ packages
- Develop budget summary for awarded projects.
- Negotiate subcontract value and scope.
- Compose subcontract agreements.

Skills:

- Effectively organize, contract and manage all phases of Construction
- Ability to work from early pre-bid and design through completion of project.
- Scheduling, including CPM and Bar Chart
- Estimating and compilation of value engineering proposals.
- Budget negotiations and contracting
- Change Order Negotiation
- Experience in Construction Law
- Ability to work with architects and other design professionals in completing scopes of work.
- Strong leadership skills.
- Effective troubleshooter, capable of resolving problems or concerns
- Tracking and supervising contractual requirements, scheduling, accounting for job cost analysis compilation of value engineering proposals as well as broad experience in estimating all scopes of division work.

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Project Experience:

Site Development:

Compartment "B" Everglades Restoration Project - SFWMD - West Palm Beach, FL
Billy's Creek Filter Marsh - Fort Myers, FL
Carrell Road Box Culvert Replacement - Fort Myers, FL
Manuel's Branch Weir - Fort Myers, FL
North Fort Myers Surface Water Restoration - North Fort Myers, FL

Roadway Improvements:

Sanibel Bridge Toll Plaza & Roadway Construction - Fort Myers, FL
Ben Hill Griffin Parkway Landscaping & Irrigation - Estero, FL
Florida Department of Transportation Inspection Stations - Charlotte County, FL
Veteran's Parkway Landscaping & Irrigation - Fort Myers, FL

Parks and Recreational Facilities:

Brighton Pool Facility - Brighton Indian Reservation - Glades County, FL
Chadwick Park - Englewood, FL
Franz Ross Football Field - Port Charlotte, FL
Golden Gate Community Annex - Naples, FL
Lakes Park 20yr Master Plan - Fort Myers, FL
Lovers Key Bayside Park - Fort Myers Beach & Bonita Springs, FL
Neighborhood Park - Cape Coral, FL
Pelican Soccer Park - Cape Coral, FL
Ten Mile Linear Park - Fort Myers, FL
Vanderbilt Beach Bathhouse & Dune Crossover - Naples, FL
Veteran's Park/Phase I, II & III - Lehigh Acres, FL
Wa-Ke-Hatchee Park - Fort Myers, FL

Lee County Port Authority:

Southwest Florida International Airport / Maintenance Building - Fort Myers, FL
Page Field Terminal Florida Department of Law Enforcement Communications Center - Fort Myers, FL

Waste Management of Florida:

Household Chemical Waste - Fort Myers, FL
Immokalee Transfer Station - Immokalee, FL
Lee County Transfer Station - Fort Myers, FL
Materials Recycling Facility - Fort Myers, FL
Naples Landfill Offices - Naples, FL
Solid Waste Transfer Station - Cape Coral, FL
Zemel Road Waste Storage - Punta Gorda, FL

Fire Station and Emergency Medical Service Stations:

Cape Coral Fire Station No. 1 - Cape Coral, FL
Cape Coral Fire Station No. 3 - Cape Coral, FL
Cape Coral Fire Station No. 4 - Cape Coral, FL
Cape Coral Fire Station No. 8 - Cape Coral, FL
Cape Coral Fire Station No. 9 - Cape Coral, FL

Historic Renovation:

Charlotte County Courthouse

Multi-Family Housing Renovation:

Sanders Pines and Timber Ridge Renovations - Immokalee, FL

Bonaire Tower 11 Story Window Replacement- 1915 Halgrim Ave, Fort Myers, Florida

Goodlette Arms Apartments Renovations
Horizon Apartments Balcony Reconstruction
Immokalee Dormitory Housing Project
Brighton Reservation Housing Renovations
Additions to Farm Worker Village Phase 5-B

In addition, Cabot Dunn was involved in the construction of numerous other facilities, including schools and educational facilities, housing authority projects, U.S. Postal Service structures, medical facilities, libraries and religious facilities.

Achievements:

- State of Florida Contractors License, 1985



May 18, 2018

Mr. Donald DeGraw
Director of Airports
Key West International Airport
3491 South Roosevelt Blvd.
Key West, FL 33040

**RE: Key West International Airport - Noise Insulation Program (NIP)
Construction of KWBTs Building B, Floors 3 – 6
Bid Award Recommendation
Sent via Email**

Dear Mr. DeGraw:

Bids for the Key West International Airport NIP – Construction of KWBTs “Building B, Floors 3-6” were opened at the Monroe County Budget and Finance Purchasing Department office at 3:00 pm on May 9, 2018. The following bid was received:

DEC Contracting Group, Inc. - \$3,160,070.52

We reviewed the bid submittal received. The highlight of the bid submittal is as follows:

DEC Contracting Group, Inc. – Bid Total: \$3,160,070.52

All required submittal items were provided by the Bidder.

Minor bid irregularities noted in the bid were:

1. The Bidders Statement of Insurance is missing. It is item Q on page I-6 of Bid Proposal Items. DEC did submit a certificate of insurance which appears to meet the contract requirements, but the signed statement was not included.

Bid vs. Engineers Estimate

The bid received was reviewed against the Engineer's Estimate. The table below shows that the Total Bid is 6.39% lower than the engineer's estimate of \$3,375,610.00.

BID TABULATION FOR KEY WEST INTERNATIONAL AIRPORT NOISE INSULATION PROGRAM CONSTRUCTION OF KWBTs "BUILDING B, FLOORS 3 - 6 (34 UNITS)" BID DATE: MAY 9, 2018, 3:00 PM		
BID ITEM	ENGINEERS ESTIMATE	DEC Contracting Group, Inc.
TOTAL BASE BID <i>(includes construction costs for 34 KWBTs condominiums, 5% Contingency, General Conditions, Overhead & Profit, Bonds, Insurance and Permits)</i>	\$3,375,610.00	\$3,144,010.52
ADDENDUM <i>(Items 003 & 004)</i>	<i>SEE NOTE 1 BELOW</i>	\$16,060.00
TOTAL BID	\$3,375,610.00	\$3,160,070.52
PERCENT COMPARISON <i>Engineer's Estimate vs. DEC</i>	100.00%	93.61%

Note 1: Addendum No. 2 Items 003 & 004 were not included in Engineer's Estimate dated 3/9/2018.

BID AWARD RECOMMENDATION

After conducting a detailed review of all references and a comparison of submitted costs to the engineer's estimate, THC, Inc. recommends awarding the Key West International Airport NIP – Building B, Floors 3-6 contract to **DEC Contracting Group, Inc. for the Base Bid amount of \$3,160,070.52**. Despite the minor bid irregularity noted above, DEC Contracting Group, Inc. has represented that they are the lowest responsible / responsive bidder and have met all the requirements for bidding as outlined in the Contract Documents.

The award of this contract is subject to the FAA issuing a grant to Monroe County.

Please call with any questions that you may have regarding this information.

Sincerely,



Steven J. Vecchi
NIP Project Manager

CC: Deborah Murphy Lagos, Noise Program Coordinator, DMLA
Richard Sun, AIA, TSG
Heather Faubert, NIP Assistant Project Manager, THC

Key West International Airport Noise Hotline Log

Date of call	Time of call	Caller	Contact information	Message
4/6/2018	2:53 PM	Martha Robinson	2710 Seidenberg Ave. 305-296-7178	She wants to be included in the NIP, but she understands she is a half a block outside the line. The noise from the airport is so loud, and has been for 30 years.

Airport Noise Report



A weekly update on litigation, regulations, and technological developments

Volume 30, Number 7

March 9, 2018

Flight Paths

MITRE EXPANDING TOOLBOX AVAILABLE TO FAA FOR DISPERSING PBN FLIGHT TRACKS

All across the country, communities under newly concentrated NextGen flight paths and their elected representatives have been pleading with the FAA to disperse aircraft departures over a wider area to reduce noise impact and provide respite from constant, tightly-focused streams of overflights.

Research that MITRE Corporation has been conducting for FAA since fiscal year 2016 is addressing those pleas by developing and evaluating aircraft departure concepts that will reduce flight path concentration and move noise away from sensitive areas.

“The goal of the work is to expand the toolbox available to [FAA] procedure designers for noise management and to increase awareness of available options and potential tradeoffs,” MITRE airspace procedures design expert John Brandt told ANR.

Brandt serves as Senior Principal Aviation Systems Engineer for Airspace & Procedures Design and Analysis at MITRE.

(Continued on p. 26)

Flight Paths

SLOWING AIRCRAFT DEPARTURE SPEED CUTS NOISE SIGNIFICANTLY, MIT STUDY FINDS

Slowing aircraft departure speed by about 30 knots (35 mph) – to the point at which airframe and engine noise are equal – could significantly reduce noise on the ground, according to an MIT aeronautics professor who is leading a landmark study at Boston Logan International Airport seeking ways to reduce the noise impact of concentrated NextGen flight tracks.

Airframe noise dominates at some later stages of takeoff on newer aircraft, which have much quieter modern engines.

Dr. John Hansman, who directs MIT’s International Center for Air Transportation, reported the findings of his study to date at the U.C. Davis Aviation Noise and Emissions Symposium in Long Beach, CA, on Feb. 26.

His study also was the focus of a March 7 story in the *Wall Street Journal* (“A New Antidote for Noisy Airports: Slower Planes”).

Professor Hansman’s study was agreed to in 2016 under a Memorandum of Understanding signed by the FAA and the Massachusetts Port Authority (Massport) that framed a process for analyzing opportunities to revise NextGen arrival and de-

(Continued on p. 27)

In This Issue...

PBN Flight Paths ... Two presentations at the recent U.C. Davis Aviation Noise and Emissions Symposium focused on the noise problem causing the most public outrage today: the concentration of aircraft onto extremely narrow PBN flight tracks.

MITRE airspace expert John Brandt provided an update on research to expand the toolbox available to FAA departure procedure designers to disperse flights and move them away from noise-sensitive areas - p. 25

MIT aeronautics professor Dr. John Hansman reported that slowing aircraft departure speed to the point where airframe and engine noise are equal results in significant noise reductions on the ground - p. 25

UAS ... Large unmanned aerial systems will be the cornerstone of future aviation, the Aerospace Industries Association and consulting firm Avascent assert in a new report. Large UAS will change the way we travel, transport products, they say - p. 27

MITRE, from p. 25

He provided an update on the research MITRE has done for several offices within the FAA in a presentation to the U.C. Davis Aviation Noise and Emissions Symposium entitled “Operational Concepts and Analysis Framework for Managing Noise Issues, Including from PBN Flight Path Concentration.” The symposium was held in Long Beach, CA, on Feb. 25-27.

All of the aircraft departure concepts being developed by MITRE “need to be tailored to the local situation (runway layout nearby airports, prevailing winds, procedure interactions, location of noise sensitive communities, etc.),” Brandt explained.

“Not all concepts will work for all airports,” he said. “From the noise perspective, some options work better for close-in communities while others work better for communities further from the airport. All of them have some operational tradeoffs that must be considered.”

At the U.C. Davis symposium, Brandt discussed work conducted by MITRE in FY 2016 and early FY 2017 for FAA’s Airspace Services Directorate as part of MITRE’s Airspace and PBN Work Program for FAA.

Feasible Departure Concepts

MITRE analyzed the noise and operational tradeoffs and the implementation challenges of the following five feasible near-term candidate departure concepts:

- **Dispersion to Fix**, which involves shortening the common leg off the runway to enable early enroute transition and more direct paths to departure fixes;
- **Multiple RNAV Runway Transitions**, which are unique Standard Instrument Departures (SIDs) from the same runway used by time of day, or on a weekly, monthly, or quarterly basis, to disperse actual paths;
- **Noise Alternative Routes**, described as two RNAV departures, one optimized for efficiency and the other for noise; assigned based on time of day or by aircraft types;
- **Radar Vectors to RNAV**, which use vector-based leg types on RNAV procedures to create dispersion, especially over noise-sensitive areas. An existing option is the Open SID concept, which is an RNAV SID with an intermediate vector segment; and
- **Vertical Profiles for Departures**, which impose altitude restrictions and/or level-offs on departures to ensure aircraft remain above certain altitudes and/or at low thrust levels over noise-sensitive locations.

MITRE did some site-specific applications of these departure concepts in FY 2017.

ELSO and Open SIDs

As MITRE was coming out of this first project in FY 2016, FAA’s Office of Environment and Energy (AEE) and its Office of Airports (ARP) became interested in two specific departure concepts – Equivalent Lateral Spacing Operations (ELSO) and Open SIDs – and how they could be made avail-

able to airport planners as well as procedure designers for noise abatement, Brandt told ANR.

ELSO is a NextGen-enabled technology that allows air traffic controllers to space routes more closely together laterally and safely clear aircraft for takeoff more efficiently.

“This is possible because aircraft equipped with performance-based navigation are able to fly precise paths with pinpoint accuracy, giving controllers more certainty about the aircraft’s path,” FAA explained in an agency Fact Sheet.

“When controllers know the aircraft’s exact path on takeoff, they don’t have to build an extra cushion of airspace around the plane to account for variations in the flight path.”

MITRE examined how ELSO and Open SIDs would work with five departure options under the work it did for AEE and ARP:

- Conventional departures on a single heading;
- RNAV departures on a single track;
- Conventional departures on multiple headings;
- RNAV departures on multiple tracks; and
- RNAV Open SIDs.

DNL May Not Be Sufficient

The departure concepts studied by MITRE can manage flight track concentration if that is an agreed-upon goal, Brandt told the symposium.

He said the departure concepts he studied decrease exposure at higher noise levels but increase exposure at lower noise levels. The primary tradeoff in employing the departure concepts is operational efficiency (flight miles) and, in some cases, increase ATC complexity.

But Brandt noted that MITRE’s research also shows that FAA’s preferred noise metric DNL, which averages noise over time, may not completely describe the changes associated with flight path concentration and that other factors, such as lateral shifts and changes in demand, may have more impact than DNL noise increases.

Concentration of flight paths results in only small DNL changes that are typically outside significant or reportable thresholds, Brandt explained, noting that FAA may need to use supplemental noise metrics – such as number of events above a certain level or an operations count – to better assess the noise impact of concentrated flight tracks on communities.

However, he added, there currently are no criteria or thresholds for using such supplemental noise metrics.

In a related presentation at the U.C. Davis symposium (see p. 25), Dr. John Hansman of MIT agreed that Numbers Above metrics are potentially better able to capture the noise impact of changes in flight paths than annual average DNL.

Noise Must Be Considered Earlier

In going forward, Brandt recommended three goals:

- Airspace and procedure design processes must evolve to consider noise earlier and more explicitly;
- Designers need complete information early in the design process. Not only do they need information on “hard” con-

straints – such as obstacles, airspace boundaries, and terrain – but they also need information on “soft” constraints, such as demographic information and noise-sensitive areas.

- Policies, processes, and metrics must continue to evolve to address noise considerations outside FAA thresholds of significance and reportability.

Asked if FAA plans to consolidate all the departure procedures MITRE developed for dispersing PBN flight tracks into one document or at one location so that airports, consultants, communities, airlines, etc. can study them, Brandt said he did not know but thinks it is something that is being discussed.

Brandt said that many of the departure concepts that MITRE developed for FAA are available now. Open SIDs and ELSO are existing options, and there have always been options to design procedures that could be used at different times of day (lots of airports have nighttime procedures; some published, some not), he told ANR.

The Multiple RNAV Runway Transitions concept could be challenging in terms of criteria, automation, and Flight Management System issues, he noted, but said even that could be done on a small scale today by creating a separate nighttime procedure with different runway transitions.

MIT Study, from p. 25

departure procedures in effect at Boston Logan International Airport that have concentrated aircraft noise impact over several communities, causing a sharp increase in aircraft noise complaints (28 ANR 135).

The MOU marked the first such collaboration in the nation between the FAA and an airport proprietor on reducing noise impact from NextGen flight paths and FAA hopes to use the ideas and procedures that are successful in Boston at other large metropolitan airports.

Noise modeling results that Dr. Hansman presented at the U.C. Davis symposium show that slower departure speeds can significantly reduce the number of people in the 60, 65, and 70 dB A-weighted maximum sound level ($L_{A\text{MAX}}$) noise contours of the departure tracks.

For instance, a delayed acceleration climb modeled for a Boeing 737-800 resulted in 24,548 fewer people in the 60 $L_{A\text{MAX}}$ contour; 15,361 fewer people in the 65 dB $L_{A\text{MAX}}$ contour; and 213 fewer people in the 70 dB $L_{A\text{MAX}}$ contour.

Dr. Hansman stressed that the noise reduction estimates for specific aircraft are subject to the caveat that they are model data validated against certification data, which are generally at a single speed.

“The aerodynamic noise models are based on NASA flight test studies in the 1970s and modern aircraft may be slightly quieter with cleaner aerodynamics so the noise benefit may be a bit less than the models predict. We are working on trying to get some flight validation data,” he told ANR.

“Computer simulations found that a limit of 220 knots turned out to be the sweet spot – that’s where aircraft noise equals engine noise. Planes would climb at a slightly steeper

rate. With a 30-knot reduction, noise directly under the flight track would decrease by between 1.5 and 5 dB and the footprint on the ground would get a lot skinnier, sharply reducing the number of people affected,” Dr. Hansman told the *WSJ*.

Typical aircraft departures include thrust reduction at 1,000 ft. Above Ground Level (AGL) followed by an acceleration to 250 knots climb speed and flap retraction. The delayed acceleration departure that Hansman has recommended would follow thrust reduction at 1,000 ft. AGL with an acceleration to a 220 knot climb speed or the minimum safe airspeed in clean configuration, whichever is greater, until a to-be-determined altitude (i.e. 6,000 ft. or 10,000 ft.).

Flights using delayed acceleration climb would last a few seconds longer and the airlines would burn a few more gallons of fuel, Hansman told the *WSJ*, but “hundreds of thousands of people would get some [noise] reduction and for tens of thousands, it would go from problematic to not problematic.”

Jim Hileman, FAA’s Chief Scientific and Technical Adviser for Environment, told the *WSJ* that reduced speed departures are “an intriguing idea because it could be used in a lot of places.”

JetBlue, which is participating in the Boston study, supports the idea, telling the *WSJ*, “We have a lot of work to do to validate this, but let’s get to it. It’s a good deal,” said Joe Bertapelle, JetBlue’s Director of Strategic Airspace Programs.

Airlines for America cautiously supports the idea, issuing a statement saying delayed acceleration climbs must be safe, work with a variety of aircraft, and not reduce the airport’s capacity for takeoffs and landings.

Massport believes slower takeoffs will not affect capacity at Boston Logan International.

Dr. Hansman noted in his presentation at the U.C. Davis symposium that using Numbers Above metrics to assess changes in noise impact from flight path concentrations captures 84 percent of noise complaints and thus are potentially more representative of the impact of flight path changes on a community than Annual Average DNL.

UAS

LARGE UAS IS CORNERSTONE OF FUTURE AVIATION, AIA SAYS

The Aerospace Industries Association, in partnership with the aerospace and defense management consulting firm Avascent, has released a study projecting explosive growth in the global market for large unmanned aerial systems (UAS) over the next two decades.

The report, *Think Bigger: Large Unmanned Systems and the Next Major Shift in Aviation*, shows that large UAS represent a cornerstone of future aviation and will change the nature of travel, technology, and transport and the economies surrounding those markets, AIA said in Feb. 27 release announcing the report.

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The report is at <https://www.aia-aerospace.org/uasreport2018>

Spending on large UAS is expected to rise from the low hundreds of millions today to \$30 billion annually by 2036, driven by manufacturing and services for long-haul cargo and passenger aircraft, AIA said. Its report also shows that spending will sustain up to 60,000 research, manufacturing, and service jobs annually by the end of that timeframe.

“We have got to think bigger when it comes to the future of unmanned aviation,” said AIA President and CEO Eric Fanning.

“The future unmanned systems market will change the way we travel and transport products. We could see entirely new economic centers where they don’t exist today. It’s an incredible opportunity, if government and industry start now on the regulations and technology to realize that potential.”

“The biggest barrier to growth is the regulatory framework,” Fanning said. “Global competitors are working to seize the market from the United States, the country that invented this technology. These are American jobs and American opportunities. But we must start now on certification standards, exports, and spectrum to ensure they stay American.”

The AIA report explains that large UAS will operate in low to high altitudes and will range in weight from 55 lb. to over 200,000 lb.

Early adopters of large UAS (2018 – 2024) will include energy companies, fire departments, farms, construction firms and insurance inspectors who currently use small UAS but will move to large UAS to dramatically improve endurance and to obtain more sophisticated sensor payloads and onboard data processing that AIA says will be “transformational.”

The second stage of large UAS adoption (2025-2031) will see the debut of cargo aircraft for short-haul flights at relatively low altitudes over rural and low-population areas as well as intra-city passenger aircraft flying at low altitudes, frequently serving as a taxi or shuttle service.

“By the end of this period, research spending increases on high altitude aircraft that provide telecommunications services to rural areas lacking connectivity. Research and development activities focused on increasingly autonomous long-haul passenger and cargo aircraft (35,000 lb. and above max takeoff weight) drive overall spending during this time and set the stage for growth in manufacturing and services such as operations, maintenance and repair,” the report notes.

Beyond the year 2032, AIA predicts we will see the introduction of early prototypes of long-haul passenger and cargo aircraft leading to increased levels of production by 2036.

As with the earlier introduction of air taxis, many of the first long-haul and cargo and passenger UAS will still have a pilot onboard to mollify passengers even though the aircraft will be fully autonomous.

AIRPORT NOISE REPORT

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Airport Noise Report



A weekly update on litigation, regulations, and technological developments

Volume 30, Number 8

March 16, 2018

NASA

NASA WILL SOON ISSUE CONTRACT TO DESIGN, BUILD LOW-BOOM FLIGHT DEMONSTRATOR

“In the coming weeks,” NASA will award a competitive contract for detailed aircraft design, build, and validation of the Low Boom Flight Demonstrator (LBFD) X-Plane that will demonstrate quiet overland supersonic flight and enable U.S. industry to open a new market to U.S. industry, Acting NASA Administrator Robert Lightfoot Jr. said March 7.

His comments were made in written testimony presented to the House Science, Space & Technology Subcommittee at its hearing on the Trump administration’s \$634 million NASA budget request for Fiscal Year 2019.

In FY 2019, Lightfoot told the Subcommittee, “NASA will ensure the LBFD X-plane is on track for first flight by FY 2021. NASA also will continue to develop and validate community response test methodologies that will be employed during the subsequent LBFD flight campaign.

“Data generated from flights of this demonstrator will feed directly into national and international regulatory decision making processes and timelines, enabling a rule change that will allow civil supersonic flight over land.”

(Continued on p. 30)

Technology

BOEING 2018 ECO-DEMONSTRATOR TESTING SYNTHETIC ILS EXPECTED TO REDUCE NOISE

A synthetic instrument landing system (SILS) that is expected to reduce community noise up to 1.5 dB and also increase airport capacity and efficiency is one of the technologies being tested in Boeing’s 2018 ecoDemonstrator program.

SILS uses satellites to mimic traditional radio beam, ILS landing guidance that is standard at all airports. It allows satellite guidance to be retrofitted into older airplanes without having to change out a lot of hardware.

Because SILS uses satellites, airplanes landing in the future could use different approaches to airports or steeper approaches, Boeing explained.

“Airplanes wouldn’t have to line up with the radio beam and could come in on less disruptive approaches to people living in the flight path. Airplanes could also fly steeper approaches to the airport even on the current flightpath that have them at higher altitudes closer to the airport. Either of these options could reduce noise around airports,” a Boeing spokesman told ANR.

Boeing’s 2018 ecoDemonstrator program, which will flight test new technologies aimed at environmental sustainability, will use a FedEx 777 Freighter aircraft,

(Continued on p. 31)

In This Issue...

Low-Boom SST ... In the next few weeks, NASA will award a contract for detailed design, build, and validation of a Low Boom Flight Demonstrator expected to fly by FY 2021, Acting NASA Administrator tells House committee - p. 29

Technology ... A synthetic ILS system expected to reduce community noise by up to 1.5 dB is being tested in Boeing’s 2018 ecoDemonstrator program - p. 29

Boston Logan ... Massachusetts Congressman urges FAA to direct departures out of BOS over water like agency allows airports in California to do - p. 30

FAA Forecast ... U.S. enplanements will grow by more than 400 million in next 20 years - p. 30

Spaceport ... FAA seeks public comment on its Draft EIS for a spaceport proposed to be built on southern coast of Georgia; unique model used to analyze noise - p. 31

*SST, from p. 29***Goals of LBFD Program**

Craig Nickol, NASA Low-Boom Flight Demonstrator Project Manager, told participants at the recent U.C. Davis Aviation Noise and Emissions Symposium that the overarching goals of the Low Boom Demonstrator Program are:

- To demonstrate that noise from sonic booms can be reduced to a level acceptable to the population residing under future supersonic flight paths; and
- To create a community response database that supports an international effort to develop a noise-based rule for supersonic overflights.

NASA will conduct four to six flights of the LBFD over “representative communities” and in various weather conditions across the United States, he said.

These overflights will be done in fiscal years 2023 - 2025, by which time the International Civil Aviation Organization’s Committee on Aviation Environmental Protection (CAEP) is expected to issue a sonic boom noise standard with noise limits.

Nickol said that numerous studies using both simulated sonic booms and real booms with low noise features generated by a special dive maneuver have demonstrated that 75 PLdB (perceived level of decibels) represents a threshold value for low annoyance reactions to sonic boom noise.

Levels below 75 PLdB have been shown to result in very low to no response annoyance to a boom event, Nickol told the symposium. The ability to expose the public to this range of boom noise in the most realistic conditions (i.e. by overflight of actual communities) is key to defining acceptable noise targets for future supersonic aircraft, he said.

New Subsonic Aircraft Technologies

Returning to Acting NASA Administrator Robert Lightfoot’s testimony, he told the House Science & Space Technology Subcommittee that in FY 2019 NASA will “continue to advance new subsonic aircraft technologies that will dramatically reduce fuel consumption, noise, and emissions through a combination of numerical analyses, ground tests, and flight experiments.”

Regarding electric aircraft, Lightfoot said that NASA will advance electric propulsion systems by flight testing an advanced configuration of the X-57 Maxwell aircraft, a general-aviation-scale aircraft to test highly integrated distributed electric propulsion technology.

This demonstration, he told the Subcommittee, will address the integration of electrical and power distribution components, critical to development of standards and certification methodologies required to enable widespread use of this technology.

NASA also will advance the state of the art of key technologies needed to realize practical larger-scale hybrid electric propulsion systems for the future.

Boston Logan Airport**CAPUANO URGES FAA TO DIRECT DEPARTURE PATHS OVER WATER**

Rep. Michael E. Capuano (D-MA) said March 2 that he has written the FAA, urging the agency to redirect departure paths out of Boston Logan International Airport so that aircraft will fly directly over the water, an approach the FAA recently took with two California cities located near John Wayne Airport.

“The FAA addressed neighborhood concerns in Laguna Beach and Newport Beach by directing commercial jets leaving the local airport to fly over the ocean. This provides a measure of relief from noise and pollution burdens, and there is no reason why the FAA cannot apply that same approach to the neighborhoods impacted by Logan,” Rep. Capuano said.

In his letter, Rep. Capuano noted that the FAA and the Massachusetts Port Authority are conducting a joint study, exploring ways to lessen the impact of air traffic on residents living under flight paths. Rep. Capuano pointed out that the agreements signed between John Wayne Airport and the two communities were completed without first conducting a study.

“While the data being gathered as part of the ongoing study will provide all of us with important insights, it is clear from the approach elsewhere that the FAA needn’t wait for the results to take action,” he said.

In his letter, Rep. Capuano urged the FAA to move air traffic over Boston harbor as soon as possible after take-off and keep planes over water for as long as possible before landing in instances where safety or weather make a water only approach more difficult.

“Given what we know the FAA has implemented in California, officials at a minimum must make it a priority to keep air traffic over the water and away from neighborhoods as much as possible. If it works on the west coast, it can certainly work here,” Rep. Capuano stressed.

FAA Forecast**U.S. AIRLINE PASSENGERS WILL GROW BY 400 MILLION IN 20 YEARS**

U.S. airline enplanements (passengers) will increase by more than 400 million in the next 20 years, from 840.8 million in 2017 to 1.28 billion in 2038, FAA said March 15.

All indicators show that air travel in the United States is strong and the trend will continue, FAA said in its Aerospace Forecast for Fiscal Years 2018-2038.

This strong growth in enplanements is occurring while American air travelers are experiencing the highest levels of safety in modern aviation history, the agency stressed.

The FAA forecast predicts that domestic enplanements are set to increase 4.7 percent in 2018 and then grow at an av-

erage rate of 1.7 percent per year during the remaining 20-year forecast period.

International enplanements are forecast to increase 5.0 percent in 2018 and then grow an average of 3.3 percent per year for the rest of the forecast period.

Revenue Passenger Miles (RPMs) are the industry standard for measuring air travel demand, FAA said. An RPM represents one revenue passenger traveling one mile. The FAA forecasts U.S. airline system RPMs to grow at an average rate of 2.5 percent per year between 2017 through 2038 with international RPMs projected to have average annual increases of 3.2 percent per year during the forecast period.

A key to meeting this growth in air travel, while maintaining high levels of safety and efficiency, FAA said, is to ensure we have the necessary infrastructure to meet demand. Underscoring this point, the FAA forecasts total operations (landings and takeoffs) at FAA and contract towers to reach 51.0 million in 2018 and grow to 60.5 million in 2038.

The Department of Transportation and the FAA are planning for this growth in air travel with robust infrastructure investments through the Airport Improvement Program. Air traffic modernization is rapidly moving towards satellite navigation technologies and procedures, which will continue to allow enhanced navigation for more aircraft, FAA explained.

‘Phenomenal’ UAS Growth Forecast

The FAA forecast also highlighted what it called the “phenomenal” growth in the use of Unmanned Aircraft Systems (UAS), often referred to as drones.

The FAA projects the small model hobbyist UAS fleet to more than double from an estimated 1.1 million vehicles in 2017 to 2.4 million units by 2022. The commercial, small non-model UAS fleet is set to grow from 110,604 in 2017 to 451,800 in 2022. The number of remote pilots is set to increase from 73,673 in 2017 to 301,000 in 2022.

In addition to UAS, FAA said another rapidly growing aerospace field is the FAA’s licensing, oversight and regulation of commercial space transportation activities.

The agency projects that commercial space launch and re-entry operations may triple from 22 in 2017 to as high as 61 operations in 2020.

The FAA Aerospace Forecast is the industry-wide standard of measurement of U.S. aviation-related activities. The agency said its forecast stems from variety of data, trends, and other factors the agency uses to develop it, such as generally accepted economic projections, surveys and information sent by the airlines to the DOT. Additionally, the scope of the report looks at all facets of aviation including commercial air travel, air cargo, and private general aviation.

A Fact Sheet on the FAA Forecast is at https://www.faa.gov/news/fact_sheets/news_story.cfm?newsId=22594

Boeing, from p. 29

Jeanne Yu, Director of Technology Integration for Boeing’s ecoDemonstrator Program and Commercial Airplanes Product Development, told participants at the U.C. Davis Aviation Noise and Emissions Symposium in Long Beach, CA, in a Feb. 26 presentation.

From January through May, Boeing and FedEx plan to work together to test more than 35 technologies aboard the FedEx-owned 777 Freighter, including flight deck enhancements, a compact thrust reverser, and advanced materials.

One of the new technologies being tested is an Airborne Collision Avoidance System (ACAS X), which is a NextGen flexible alerting system that supports new airspace procedures and results in significantly fewer unnecessary alerts, Yu said in her presentation at the U.C. Davis symposium.

She also said that the ecoDemonstrator aircraft will fly on 100% biofuel for the first time. Boeing expects all-biofuel flight to result in about a 3 to 4% lower fuel consumption as well as lower smoke emissions, and it has the potential to reduce life-cycle greenhouse gas emissions by 50 to 80%.

Some of the noise and emissions reduction technologies being tested in the ecoDemonstrator Program also can improve airlines’ gate-to-gate efficiency and other operational goals. Boeing said the proven ecoDemonstrator technologies and processes might be incorporated into existing production models, made available for in-service fleets, or applied to new airplanes development programs.

“Boeing’s ecoDemonstrator program plays an important role in the company’s innovation and environmental strategy,” Mike Sinnett, Commercial Airplanes vice president of Product Strategy and Future Airplane Development, said last November when the 2018 program was announced.

“By using flight testing to accelerate new technologies, we can move development along, off the critical path.”

2018 is the first year that a Boeing 777 aircraft is being used for the ecoDemonstrator flying testbed. In past years a Boeing 737, 787, 757, and an Embraer airplane have been used.

Not counting the 2018 program, the ecoDemonstrator program has tested more than 80 technologies to improve environmental sustainability.

Spaceports

FAA SEEKS PUBLIC COMMENT ON DEIS FOR GEORGIA SPACEPORT

May 16 is the deadline for the public to submit comments on FAA’s Draft Environmental Impact Statement (DEIS) on proposed Spaceport Camden, which would be located on the southern coast of Georgia.

The Camden County, GA, Board of Commissioners is proposing to develop and operate a commercial space launch site that would include a vertical launch facility, a landing

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zone, and operational support facilities.

Up to 12 vertical launches would be conducted each year, as well as up to 12 landings of associated first-stage launch vehicles, and 12 pre-launch static fire engine tests.

The launches would be directed over the Atlantic Ocean to the east of the spaceport and the preferred alternative would have the first stage of the launch vehicle return to the spaceport, although an option would be to have it land on a barge in the ocean.

RUMBLE Noise Model

Blue Ridge Research and Consulting (BRRC), located in Ashville, NC, conducted a study of the noise impact of the proposed spaceport. It noted that because the FAA does not currently have an approved noise model for launch vehicles, the FAA Office of Environment and Energy must approve all non-standard noise analysis.

BRRC got approval to use the Launch Vehicle Acoustic Simulation Model (RUMBLE) it developed to analyze the noise associated with the proposed operations at Spaceport Camden.

BRRC analyzed single event propulsion noise and sonic boom results in relation to hearing conservation and structural damage claims. The study concluded that LAmax noise levels in excess of 115 dBA (the Occupational Safety and Health Administration's upper noise level limit for workplace noise exposure) would be limited to a radius of 0.7 miles from the launch pad and 0.4 miles from the landing pad.

LAmax of 115dBA is used as the best available, conservative threshold to identify potential locations where hearing protection should be considered for a rocket launch.

The potential for structural damage claims from propulsion noise on launch is approximately one damage claim per 100 households exposed at 120 dB and one in 1,000 households at 111 dB.

Lmax in excess of 120 dB would be limited to a radius of 2.9 miles from the launch pad and Lmax in excess of 111 dB would be limited to a radius of 7.7 miles from the launch pad a Spaceport Camden.

Noise levels in excess of 65 DNL, the metric FAA uses to determine significant noise impact, would be limited to a radius of 0.8 miles from the launch pad and 0.4 miles from the landing pad. The sonic boom footprint does not intercept land and thus would not contribute to the DNL contours. The area within the 65 DNL contour is uninhabited.

The closest residential areas to the spaceport would be exposed to noise levels expected to disrupt normal speech (i.e. 66 dBA) for less than 132 seconds during each single noise event.

FAA's request for comments on the spaceport DEIS was published in the March 16 Federal Register. Search for "March, 16, 2018, Federal Register." Click on Current Issue; scroll down to FAA.

AIRPORT NOISE REPORT

Anne H. Kohut, Publisher

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Airport Noise Report



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FAA

JULIE MARKS MOVES OUT OF AIR TRAFFIC AND INTO NEW POSITION IN NEXT-GEN OFFICE

Julie Marks, who was appointed in October 2016 to the new position of Community Involvement Manger for Airspace Projects in FAA's Air Traffic Organization (ATO), has moved on to a new position within the agency.

On March 19, she began serving as a special assistant to Pamela Whitley, FAA's Acting Assistant Administrator for NextGen (ANG).

The NextGen Office coordinates NextGen initiatives, programs, and policy development across the various FAA lines of business and staff offices. The office also works with other federal and state government agencies, with FAA's international counterparts, and with members of the aviation community to ensure harmonization of NextGen policies and procedures.

In her new role, Marks will assist the NextGen Office with integrating lessons learned and enhanced practices for addressing community concerns into NextGen planning and decision making, just as she assisted ATO in integrating enhanced practices into airspace plans and processes.

In her previous job as ATO's Community Involvement Manager for Airspace
(Continued on p. 34)

NoCal Metroplex

FAA MISSES DEADLINE REPS SET FOR UPDATE OF FEASIBILITY OF NOISE MITIGATION RECS

Three northern California congressional representatives appear to be running out of patience with FAA's slowness in determining the feasibility of recommendations for mitigating the noise impact of airspace changes made under the agency's Northern California Metroplex Plan.

In a March 6 letter to FAA Acting Administrator Daniel Elwell, CA Reps. Anna Eshoo (D), Jackie Speier (D), and Jimmy Panetta (D) asked FAA to present to them by March 15 "a specific timeline for implementation of all of the changes that have been determined to be feasible by the FAA and the environmental review process for each recommendation."

However, FAA failed to meet that deadline. The agency told ANR on March 22 that it "is working on an update for Reps. Eshoo, Speier and Panetta, and we expect to provide that update soon."

In July 2017, FAA released its initial report on the feasibility of noise mitigation measures recommended by the *ad hoc* Select Committee on Select Committee on South Bay Arrivals, which the lawmakers had formed, and the San Francisco Airport/Community Roundtable (29 ANR 99).

(Continued on p. 35)

In This Issue...

FAA ... Julie Marks moves out of Air Traffic and into FAA's NextGen Office where she will still work on enhanced community involvement practices - p. 33

NoCal Metroplex ... FAA misses deadline CA congressional reps set for update on feasibility of noise mitigation measures - p. 33

Charlotte Douglas Int'l ... FAA to prepare EIS on addition of fourth parallel runway, other capacity enhancement projects - p. 34

Military Jets ... In a *scoop* for ANR, we report that Ben & Jerry's ice cream co-founder is arrested for anti-noise activism - p. 29

SoCal Metroplex ... Rep. Schiff asks FAA to determine impact of NextGen on communities around Hollywood Burbank Airport - p. 35

Omnibus Funding Bill ... FY 2018 funding for FAA NextGen, NASA Aeronautics programs increased - p. 36

Marks, from p. 33

Projects, Marks worked with the ATO Director of Airspace Services to help facilitate a more cohesive and coordinated approach to ATO community involvement and decision making.

While more work remains to be done in this area, Marks said that ATO now has the foundational building blocks to integrate her community involvement leadership responsibilities back into the Airspace Services Directorate.

Hoffman Assumes Marks' Role

Maurice Hoffman, the Acting Director of the Airspaces Services Directorate, and his team will resume responsibility for community involvement national policy and leadership – and continue progress on enhancing ATO community involvement.

Marks said that Hoffman was unable to accompany her to the recent U.C. Davis Aviation Noise and Emissions Symposium in Long Beach, CA, to meet community participants due to a scheduling conflict but he looks forward to collaborating with them and other NextGen stakeholders in the future.

Charlotte Douglas Int'l

FAA TO PREPARE EIS ON ADDITION OF FOURTH PARALLEL RUNWAY

FAA announced March 22 that it plans to prepare an Environmental Impact Statement on the addition of a fourth parallel runway and other capacity enhancement projects at Charlotte-Douglas International Airport (CLT), which is now the fifth busiest airport in the nation in terms of departures and arrivals.

FAA will hold two public scoping meetings on the EIS on April 24 and 26. The meetings will help residents learn about the airport's proposed projects and help define the purpose and scope of the study.

Charlotte's Airport Capacity Enhancement Plan recommended that the airport complete a 12,000-foot-long runway by 2023, along with other airfield and terminal improvements to accommodate future aviation demand.

The FAA is conducting the EIS in accordance with the National Environmental Policy Act (NEPA) and scoping is a required part of the process. The EIS will consider a range of reasonable alternatives that could potentially meet the purpose and need for the proposed projects and it will evaluate a No Action Alternative. The FAA expects to complete the EIS in 2020.

The FAA's most recent Terminal Area Forecast projects that the number of flights at CLT will grow at an average rate of 1.85 percent annually from more than 545,000 operations in 2016 to 745,000 operations in 2033. In 2016, the Airport served more than 21.7 million passengers, which the FAA ex-

pects to grow to more than 31.5 million by 2033.

Aircraft noise has been an issue of increasing concern for the past several years as FAA began implementing NextGen airspace procedures at CTL that concentrated flight paths. Last summer the airport formed a community roundtable to find ways to disperse flight paths and spread the noise impact. That group will now have to understand how the addition of a fourth parallel runway at CTL will affect their options for spreading flight paths.

Military Jets

BEN & JERRY'S CO-FOUNDER ARRESTED FOR NOISE PROTEST

'Cone of Silence' could be the next whimsically-named flavor of ice cream offered by the legendary ice cream company Ben & Jerry's in light of co-founder Ben Cohen's activism against aircraft noise, which is as creative as some of his confections.

Cohen and two other people were arrested in early March for violating the noise ordinance of the City of Burlington, VT – where the world famous ice cream company is based – by blaring noise simulating the level of an F-35 military jet flyover from speakers in the back of a pick-up truck to demonstrate how loud and annoying it would be.

The stunt was part of a political demonstration to protest the scheduled basing next year of 18 F-35 fighter jets at Burlington International Airport, which serves as the base of the Vermont Air National Guard. The F-35s will replace older F-16 aircraft currently based at Burlington International.

Despite strong local opposition to the F-35 basing, it has the support of Vermont's governor, its entire congressional delegation, and the mayor of Burlington, who all contend that the F-35s will provide an economic benefit to the region.

Cohen's arrest preceded a March 6 vote by residents of Burlington approving a ballot measure that advises the City Council to ask the Air Force to cancel the F-35 basing. The ballot measure, which is only advisory, passed with 55 percent of the votes.

It is unclear if it will affect the support of elected officials for the basing.

Burlington Mayor Miro Weinberger, told the *Brattleboro Reformer* newspaper, "The fact that a majority like that has spoken means I owe it, and the City Council owes it, to listen to the people of Burlington, look at where we are, look at some of the new reporting that's come out, and see if there's some new information that requires further evaluation."

But, he stressed, that is a long way from requesting the Air Force to change its plans, noting that "thousands of people" came out to support the Air National Guard as well.

The F-35s will be louder than the F-16s they will replace but will fly about one-third fewer annual operations than were done with the F-16s, according to the final Environmental Impact Statement on the basing prepared by the U.S. Air

Force.

The Final EIS also stated that basing the F-35s at Burlington International is not expected to cause adverse health effects but the noise analysis does indicate that it would increase the number of acres, people, and housing units exposed to noise levels of 65 dB DNL or greater. The F-35 basing also would cause disproportionate noise impacts on low-income and minority populations exposed to noise levels in excess of 65 dB DNL.

Opponents of the F-35s, say the aircraft is over four times louder than the F-16 and will add 6,600 homes to the 65 dB DNL noise contour.

The EIS was challenged by the Stop the F-35 Coalition and six residents of Chittenden County, VT. In August 2016, a federal judge ruled that the EIS complied with the National Environmental Policy Act.

Ben & Jerry's has a long history of social activism and philanthropy and it includes aviation. In 2006, the company began its "Cool Your Jets" renewable energy project under which it helps people around the world purchase carbon offsets for their airplane travel.

NoCal Metroplex, from p. 33

One of that report's main conclusions was that it was feasible to scrap the SERFR arrival route from the south into San Francisco International Airport, which has sparked some of the intense public anger, and to go back to the previous flight track four miles west of SERFR. But FAA said it would take 18-24 months to complete the redesign of SERFR.

Last November, FAA issued a follow-on to its initial report that included updates on recommendations that were previously under technical evaluation by the agency, as well as implementation timelines for those recommendations deemed feasible (29 ANR 183).

Launched in March 2015, the NoCal Metroplex plan introducing new Performance Based Navigation (PBN) procedures and employed Time Based Flow Management to make the Northern California Metroplex airspace more efficient and to improve access to its airports.

But the communities that had flight paths moved over them – especially in counties on the coast south of San Francisco – were outraged and turned to their elected representatives for help.

Under strong political pressure from elected officials in the Northern California area, the FAA agreed to undertake an initiative to assess whether the ideas proposed by the public and endorsed by the SFO Roundtable and Select Committee on South Bay Arrivals to mitigate the noise impact of the NoCal Metroplex plan were feasible and, if so, to implement them.

FAA's updated Initiative to Address Noise Concerns of Santa Cruz/Santa Clara/San Mateo/San Francisco Counties "reflects significant work on the part of the agency to miti-

gate the damage done to our constituents when the NextGen program was implemented without effective community engagement in all of our Congressional Districts," Reps. Eshoo, Speier, and Panetta told Elwell in their March 6 letter.

"While this progress was welcomed by many of those who are affected by this issue, our constituents continue to suffer from the impacts of aircraft noise on a daily basis and are eager for relief."

"We appreciate the FAA's continuing efforts on this important issue and we need to know that your agency is continuing to make progress on those items in the Initiative which have been deemed feasible," the lawmakers wrote.

SoCal Metroplex

SCHIFF ASKS FAA TO STUDY NOISE INCREASE AROUND BURBANK

In a March 20 letter, Rep. Adam Schiff (D-CA) urged FAA Acting Administrator Daniel Elwell to review the impacts of NextGen air traffic control technology on the community surrounding the Hollywood Burbank Airport.

"Airplane noise is not new to the Burbank area, but residents are concerned that NextGen flight path changes may have exacerbated the problem," Rep. Schiff wrote.

"I'm asking for an authoritative study from the FAA to determine whether NextGen is the cause of increased noise to area residents. If it is, we would urge the FAA to adjust current flight paths and ensure that established altitude levels for planes flying above residential areas are safely enforced."

The FAA has been implementing NextGen – a shifting of air traffic control from ground-based radar and radio navigation to more precise satellite-based navigation and aircraft tracking – across the country, Schiff noted.

Los Angeles County implemented NextGen via FAA's Southern California Metroplex plan in April 2017, which altered flight routes for many airports in the Los Angeles region.

Schiff told Elwell that airplane noise is not new to the Burbank area.

"For years, I have been working to get a mandatory curfew in place at the airport to give my constituents relief from nighttime flights. Now there is concern that the noise is only exacerbated due to new flight patterns instituted by the FAA as part of the NextGen air traffic control technology.

"I understand that the City of Burbank along with the Burbank-Glendale-Pasadena Airport Authority wrote to you earlier this month regarding these concerns. I share these concerns, and I ask for an authoritative study to determine the cause of any increased noise around the Hollywood Burbank Airport.

"As the FAA reviews its post-implementation of Southern California Metroplex, it is imperative that the FAA examine the changes made and ensure that these changes do not detrimentally affect the daily lives of those living around the air-

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port.

“Should the FAA determine that NextGen is the cause of this increase in noise, I ask the FAA to adjust the current flight paths and ensure that the FAA-established altitude levels for planes flying above residential areas are safely enforced.”

FY 2018 Omnibus Appropriations Bill

**FUNDING FOR NEXT-GEN PROGRAM,
NASA AERONAUTICS IS INCREASED**

The fiscal year 2018 omnibus appropriations bill, which passed the House on March 22 and is expected to pass the Senate today, includes \$1.3 billion for FAA’s NextGen program, an increase of \$239 million, Rep. Mike Quigley (D-IL), who serves on the House Appropriations Committee, announced.

The bill will provide funding for federal government agencies through Sept. 30, the end of fy 2018.

The bill also includes language instructing the FAA to conduct short- and long-term noise mitigation activities around O’Hare International Airport and to provide eight new FAA field staff to address noise concerns, Quigley said in a March 22 statement.

Sen. Jack Reid (D-RI), the Ranking Member of the Senate Transportation, Housing and Urban Development and Related Agencies (THUD) Appropriations Subcommittee, said the omnibus spending bill provides \$18 billion for the FAA, which is \$1.59 billion more than the fiscal year 2017 enacted level.

The bill includes an additional \$1 billion in general fund resources for the FAA’s Airport Improvement Program (AIP), bringing the total funding for this program to \$4.35 billion, which will be used to enhance airports’ safety, construction, and noise mitigation, with a preference for small and rural airports.

The airlines trade group Airlines 4 America said it was pleased that the omnibus funding bill did not double to current Passenger Facility Charge (PFC) from \$4 to \$8, which airports had pushed for.

NASA’s Aeronautics Program funding was increased in the omnibus spending bill by \$61 billion in fy 2018 compared to the previous year. The Trump administration’s FY 2018 budget request of \$624 million for the program was increased to \$685 million.

ANR will have more on how the FY 2018 omnibus funding bill affects funding for aircraft noise mitigation efforts in next week’s issue.

AIRPORT NOISE REPORT

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Litigation

COURT RULES RESIDENTS MISSED WINDOW FOR CHALLENGING FLIGHT PATH CHANGE

In a major legal victory for the FAA, a federal appeals court has dismissed as untimely a lawsuit filed by Georgetown University and six neighborhood associations challenging a NextGen RNAV departure procedure out of Reagan National Airport (DCA) that moved aircraft noise closer to the historic Georgetown neighborhood of Washington, D.C.

A three-judge panel of the U.S. Court of Appeals for the D.C. Circuit ruled that the litigation was filed beyond the 60-day window provided by law for challenging FAA final orders and that there were no “reasonable grounds” for missing that deadline.

The ruling sends a strong signal to those considering challenging FAA airspace changes beyond the 60-day window – such as the State of Maryland – that the court will not conclude that there are grounds for filing lawsuits beyond that time-frame unless the FAA has left plaintiffs with the impression that it would address their concerns without needing to resort to litigation.

(Continued on p. 38)

Litigation

TWO MORE PLAINTIFFS SETTLE LAWSUITS OVER S. CAL METROPLEX AIRSPACE CHANGES

FAA’s willingness to allow a curved departure out of Burbank Airport has led to a settlement with two more plaintiffs challenging the agency’s August 2016 Finding of No Significant Impact (FONSI) and Record of Decision (ROD) for its Southern California Metroplex Project.

On March 20, Benedict Hills Estates Association and Benedict Hills Homeowners Association asked the U.S. Court of Appeals for the D.C. Circuit for an order dismissing their petitions for review, which were part of a consolidated case of eight separate lawsuits challenging the SoCal Metroplex airspace changes.

The appeals court granted their motion for voluntary dismissal of their petitions on March 29.

Four of the eight plaintiffs in the consolidated case have now settled with FAA after the agency agreed in a mediation process to alter or minimize the use of flight paths that increased their aircraft noise impact.

In addition to the two Benedict Hills petitioners, the FAA also settled in January with the City of Newport Beach and the City of Laguna Beach (30 ANR 1, 9).

Another four plaintiffs still remain in the consolidated case: Culver City, Santa

(Continued on p. 40)

In This Issue...

Litigation ... In a major victory for the FAA, the U.S. Court of Appeals for the D.C. Circuit dismisses a case challenging an RNAV departure procedure out of Reagan National Airport, ruling that it was filed beyond the 60-day window allowed by law and did not present “reasonable grounds” allowing plaintiffs to miss that window.

Court says notice in local newspaper is all FAA has to do to meet requirement that it notify the public about airspace changes and clarifies what constitutes “reasonable grounds” for missing filing deadline - p. 37

More Litigation ... Two more plaintiffs settle their lawsuits against FAA’s Southern California Metroplex Project, leaving four plaintiffs still in the case.

In their opening brief, they say FAA “thumbed its nose at NEPA” in its review of the SoCal project. City of Los Angeles says FAA NEPA process “failed at its most fundamental job” - p. 37

G'town, from p. 37

And, while FAA is expanding its community outreach on proposed NextGen airspace changes, the ruling clarifies that the only notice FAA is legally required to give regarding airspace changes is an announcement in a local newspaper.

LAZIR RNAV Departure Procedure

The plaintiffs in the case, located in the historic Georgetown area of Washington, D.C., filed suit in March 2017 alleging that FAA failed to comply with historic and environmental preservation laws when assessing the noise impact of the new "LAZIR" RNAV departure procedure out of DCA, which directed aircraft closer to the northern side of the Potomac River and Georgetown on departures to the north.

The LAZIR departure procedure was part of FAA's broader Washington, D.C. Metroplex project, a package of 41 new and modified flight procedures to guide arrivals and departures at Reagan National, Dulles International, and Baltimore-Washington International airports.

The court accepted FAA's argument that the lawsuit was untimely because the Georgetown plaintiffs filed it more than a year and a half after the December 2013 publication of FAA's Finding of No Significant Impact and Record of Decision (FONSI/ROD) approving the LAZIR procedure, which clearly stated that it constituted a final order of the FAA Administrator.

Comments on Ruling

FAA said the appeals court ruling "affirms the FAA met the requirements of the National Environmental Policy Act and considers final its northern departure routes from Reagan National Airport."

The agency added, "Separately, the FAA remains committed to engaging with the community on other, new agency actions and supporting the DCA Community Noise Working Group to address community noise concerns."

ANR asked FAA if that means the agency is willing to move or tweak the LAZIR flight path to reduce its noise impact on Georgetown residents. FAA has yet to reply.

Asked if he agrees that the ruling affirms that FAA met NEPA requirements, Steven Taber of the Pasadena, CA, law firm Lech Tishman Fuscaldo & Lampl – who represents plaintiffs challenging airspace changes made under FAA's Southern California Metroplex Plan in litigation also before the U.S. Court of Appeals for the D.C. Circuit – told ANR:

"To the contrary, the decision says at the very end, 'The FAA's efforts to inform the residents of Georgetown about the evaluation of the D.C. Metroplex were hardly a model of sound agency practice'."

"That is hardly a ringing endorsement that what they did was right. My belief is that, had Georgetown filed its petition in a timely manner, they might have had some success with the argument that the FAA's outreach was insufficient and did not consider the historic neighborhoods of Georgetown."

John Putnam of the Denver law firm Kaplan Kirsch – who represented the City of Phoenix in its successful challenge of RNAV departure procedures at Sky Harbor International and is assisting the Maryland Attorney General in deciding whether to sue FAA over airspace changes at BWI and DCA – told ANR:

"The D.C. Circuit's Georgetown decision means that potential challengers to FAA NextGen decisions should file petitions for review within 60 days of the environmental assessment.

"This means petitions would generally need to be filed even before aircraft are going to use any of the new routes and before knowing how a community will react. We will see whether this leads to an uptick in anticipatory, protective litigation."

Putnam said he could not comment on how the Georgetown ruling will affect the Maryland Attorney General's consideration of whether to challenge NextGen airspace changes made in 2014 at BWI and DCA airports. The 60-day window for challenging those flight path changes has closed.

U.S. Sen. Chris Van Hollen (D-MD) said the Georgetown ruling "failed to get at the heart of the matter – the impact of these changes on people living in our region," and that he would continue "to work with all parties involved to ensure that the FAA gives additional consideration to cumulative noise impacts and works more cooperatively with local communities on flight path issues."

Rehearing Being Considered

Richard Hinds of the D.C. law firm Cleary Gottlieb, who represents the plaintiffs in the Georgetown case, said in a statement to them: "The FAA made diligent efforts to ensure no one in D.C. was aware of the new flight path we challenged until it was an accomplished fact.

"We need to consider what, if any, steps we need to consider taking at this point, but requesting rehearing by the Court and pursuing our Administrative Petition with the FAA are being considered.

"Unfortunately the Court did not reach the merits of the case and dismissed the Petition for Review as untimely. It did so despite the lack of notice to any elected D.C. Government Official and the efforts by the FAA to ensure no one in the community was aware of the plan to make the LAZIR route the flight path for all northbound departures.

"The Court found that two small ads in the back pages of the *Washington Post* of the intent to do an Environmental Assessment of the entire D.C. Metroplex and the fact that one had been completed were adequate notice of the proposed flight path.

"The only support for that decision is an old Supreme Court Clean Water case which sanctioned publication as a means of providing notice but did not state that it was sufficient to satisfy NEPA's requirements that agencies make "diligent efforts to involve the public."

April 21 is the deadline for seeking a rehearing.

Ruling Differs From Phoenix Case

In August 2017, a different three-judge panel of the D.C. Circuit ruled that “reasonable grounds” did exist for allowing the City of Phoenix and historic neighborhood groups there to file their challenge of RNAV departure procedures at Sky Harbor International Airport beyond the 60-day window (29 ANR 111).

However, the panel of judges deciding the Georgetown case said that the circumstances that led to issuance of the finding that “reasonable grounds” existed for going beyond the 60-day window in the Phoenix case do not exist in the Georgetown case.

In the Phoenix case, the panel found that the back-and-forth discussions between the City of Phoenix and FAA “would certainly have led reasonable observers to think the FAA might fix the noise problem without being forced to do so by a court.”

Given this impression, the court in the Phoenix case concluded that the petitioners had reasonable grounds for delaying their filing “and should not be punished for treating litigation as a last rather than a first resort,” the Georgetown panel reasoned.

But, the panel stressed, the Georgetown petitioners do not argue that they delayed filing their petition for review because the FAA led them to think the agency might fix the noise problem without being forced to do so by a court.

Rather, the panel said, the Georgetown plaintiffs argued that FAA’s actions “were misleading in a different way, namely by failing to inform Georgetown of the ongoing Environmental Assessment and, later, the publication of the FONSI/ROD. This, Georgetown insists, amounts to reasonable grounds for filing their lawsuit beyond the 60-day window.”

The Georgetown plaintiffs faulted the FAA for sending notice of the EA to only two officials D.C. officials: the State Historic Preservation Officer and the city’s delegate to Congress, while the agency sent EA notices to more than 300 officials outside D.C. in Virginia and Maryland counties.

FAA counsel explained that this “troubling imbalance” was due to an oversight by the contractor hired to send out the EA notices, the court noted.

“Were the FAA obligated to give actual notice to all interested public officials, this explanation – little more than an updated version of the classic ‘the dog ate my homework’ line – would be entirely unacceptable,” the three judge panel held, but added, “Georgetown’s argument nonetheless fails.”

The panel said that the Phoenix and Georgetown cases make clear that the lack of an actual notice of FAA airspace action neither delays the start of the 60-day filing period nor provides reasonable grounds for a petitioner’s failure to timely file for review.

“Rather, the clock starts ticking from ‘the date the order is officially made public’,” the panel wrote, adding, “Of course, this is not to say that the FAA has no duty to inform the public of an ongoing EA process or to make the final order public in an appropriate manner.”

But the FAA satisfies its notice obligations through publication in local newspapers, the courts said. In the Georgetown case, the FAA complied with its obligation by placing notices in both the *Washington Post* and the *Baltimore Sun*.

“Although no court has ruled on the adequacy of such notice under the NEPA [the National Environmental Policy Act], the Supreme Court has made clear that this sort of publication suffices in similar circumstances,” the panel explained.

Court Rejects Collaboration Argument

The court also rejected the Georgetown plaintiffs’ argument that, even if the FAA met the letter of the law regarding its notice obligation, it still had reasonable grounds for its delayed filing because the FAA “collaborated” with the Metropolitan Washington Airport Authority (MWAA), the proprietor of DCA, to withhold information about LAZIR from petitioners and their elected D.C. representative.

The court noted that the plaintiffs provided no support for this claim.

The court also held that MWAA’s error in telling a D.C. official that no flight paths had been changed at DCA since August 2008, leading him to believe that LAZIR was not in effect, “cannot be charged to the FAA because the two are independent bodies with no members in common.”

The court also rejected the plaintiffs criticism of FAA’s failure to mention the new LAZIR flight path at several meetings with neighborhood groups in Georgetown during the period the flight path was being implemented.

FAA told the court that it said nothing about the LAZIR project because it assumed that the community complaints about ongoing air traffic noise were unrelated to LAZIR, which, during that time, accounted for fewer than 4% of departures.

“One might well wonder whether this was a reasonable assumption or whether the better approach would have been to disclose that even more changes were on the horizon,” the court wrote, adding, “But prudence aside, this fact alone does not provide ‘reasonable grounds’ for Georgetown’s delay, especially when the agency had repeatedly published notice about the project in the region’s paper of record and on the agency’s website.”

‘Hardly a Model of Sound Agency Practice’

But FAA did not escape the court’s scrutiny without a strong reprimand. “The FAA’s efforts to inform the residents of Georgetown about the evaluation of the D.C. Metroplex were hardly a model of sound agency practice,” the court chided.

“But, it added, “neither the FAA’s stumbles nor those of its contractor excuse Georgetown’s failure to timely file a petition for review given that the agency provided adequate notice of the EA process and never indicated that it might change its position.”

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SoCal, from p. 37

Monica Civic Association, and two individuals Donald Vaughn and Stephen Murray.

“Another way to look at this is the FAA resolved issues with Orange County and Burbank Airports and LAX and San Diego still remain,” Steven Taber of the Pasadena, CA, law firm Leech Tishman, who represents the two Benedict Hills associations and Donald Vaughn, told ANR.

Taber said FAA’s settlement with the Benedict Hills associations “provides that the FAA will implement a curved departure from Burbank Airport that should provide relief to the residents.”

FAA’s SoCal Metroplex Project is vast and includes 179 route changes at 21 large and small airports in Southern California.

Plaintiffs, City of Los Angeles File Briefs

On March 16, the remaining plaintiffs in the consolidated case challenging FAA’s approval of the SoCal Metroplex filed their opening brief with the U.S. Court of Appeals for the D.C. Circuit.

The 93-page brief asserts that FAA’s environmental assessment of the project “figuratively thumbed its nose at NEPA and its own regulatory requirements and thus abused its discretion.”

The City of Los Angeles, proprietor of Los Angeles International Airport and Van Nuys Airport, filed an amicus brief in the case, to provide the court with “additional context” on “the shortcomings of FAA’s environmental assessment process” for the SoCal Metroplex Project.

“FAA’s Metroplex NEPA process failed in its most fundamental job of clearly identifying for the public the proposed federal action, its alternatives, and environmental effects. An ordinary person could not readily determine what FAA was proposing, how it differed from what was in place before FAA’s action, and what it meant for a person’s enjoyment of her home, school, or favorite park,” the City told the court.

And the aircraft routes now being flown are much lower than those modeled by the FAA, meaning noise is likely louder, L.A. added.

“To FAA’s credit,” the City said, “FAA acknowledged some of these flaws and tried to provide supplemental information for the public after issuing the Draft Environmental Assessment but it was too little, too confusing and too difficult to use, and too late to enable meaningful public engagement.”

The City asked the court to remand the SoCal Metroplex EA to FAA to address its deficiencies. FAA must provide clearer information to the public, including accessible use-friendly maps; must address the actual flight routes that aircraft will use including accurate altitudes; and should take a hard look at how to minimize noise impact, the City asserted.

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Anne H. Kohut, Publisher

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Airport Noise Report



A weekly update on litigation, regulations, and technological developments

Volume 30, Number 11

April 6, 2018

Legislation

OMNIBUS APPROPRIATION DIRECTS FAA TO EVALUATE ALTERNATIVE METRIC TO DNL

Six members of the House Quiet Skies Caucus representing the New York City area announced April 2 that they have secured a provision in the newly enacted omnibus appropriations bill, signed into law by President Trump on March 23, that directs the FAA to examine new methods of measuring aircraft noise in order to reduce the impact of excessive airplane noise over their districts.

The provision states that the House Appropriations Committee “directs the FAA to continue to evaluate alternative metrics to the current Day-Night Average Sound Level (DNL) 65 standard and other methods to address community airplane noise concerns. The Committee encourages FAA not to rely solely on modeling and simulation, to the greatest extent that is technically feasible.”

Local newspapers in the New York City area are hailing the provision as a win for communities in the area who are demanding that their elected representatives force FAA to address the noise problems caused by NextGen procedures and airspace changes that have moved concentrated flight tracks over their heads.

(Continued on p. 42)

NASA

LOCKHEED MARTIN AWARDED CONTRACT TO DESIGN, BUILD, TEST LOW BOOM SST DEMO

NASA announced April 3 that it has awarded a contract to Lockheed Martin to design, build, and test a low boom supersonic demonstrator aircraft that will be used to gather crucial community response data that the International Civil Aviation Organization (ICAO) will use to set a noise level for overland supersonic flight.

Current regulations, which are based on aircraft speed, ban supersonic flight over land. With the low-boom flights, NASA intends to gather data on how effective the quiet supersonic technology is in terms of public acceptance by flying over a handful of U.S. cities, which have yet to be selected.

Work under the \$247.5 million contract awarded to Lockheed Martin began April 2 and runs through Dec. 31, 2021, at which point the contractor will deliver the Low Boom Flight Demonstrator (LBFD) aircraft to NASA’s Armstrong Flight Research Center in California.

Under the contract, Lockheed Martin will complete the design and fabrication of an experimental aircraft, known as an X-plane, which will cruise at 55,000 feet at a speed of about 940 mph (Mach 1.42) with a top speed of 990 mps (Mach 1.5).

The X-plane will create a sound about as loud as a car door closing, 75 Per-

(Continued on p. 42)

In This Issue...

Legislation ... FAA is directed to continue evaluating alternatives to DNL metric in provision included in omnibus funding bill by six members of House Quiet Skies Caucus. Their provision lacks a timeline to force FAA action on a new metric but Rep. Grace Meng plans to add one in the next fiscal year - p. 41

SSTs ... NASA awards Lockheed Martin a \$247.5 million contract to design, build, and test a low-boom supersonic flight demonstrator aircraft that will be used to gather community response data in 2022-2025, which will be used by ICAO to set a noise level for supersonic overland flights - p. 41

East Hampton ... FAA affirms the right of the Town of East Hampton, NY, to use airport revenue to fund a legal defense of its airport noise restrictions, which were struck down in 2015, and to fund a Part 161 study supporting new noise restrictions - p. 43

Legislation, from p. 41

But industry leaders involved in aviation noise note that the language in the provision reiterates current FAA research efforts and does not compel FAA to rely on noise measurements instead of modeling.

Others note that the provision does not include a timeline that FAA must follow in developing a noise metric better suited than DNL to assess annoyance from focused NextGen flight paths.

A spokesman for Rep. Grace Meng (D-NY), one of the authors of the provision, told ANR that the congresswoman will be seeking a timeline for FAA to follow in developing a new noise metric “in the coming fiscal year.”

Currently, measuring the impact of noise relies heavily on modeling and simulations to determine annoyance levels of aircraft noise over communities, and rarely takes into account actual noise on the ground, the NY lawmakers said in announcing their provision.

“The metric of 65 DNL has long been outdated and does not adequately measure the true impact of aircraft noise,” said Rep. Meng.

“That is why it’s time to for the FAA to reevaluate it. The blistering sounds of airplane noise in Queens continues to negatively impact the quality of life of borough residents, and looking at a more accurate measurement of noise effects would go a long way towards creating quieter skies over our communities. I look forward to seeing what other metrics the FAA proposes.”

“The science on this topic is clear: the 65 DNL threshold is not a sufficient measure to protect Americans,” said Rep. Greg Meeks (D-Queens). “But it doesn’t take a scientist to understand that current noise levels are simply too high in communities around our airports. I eagerly await the FAA’s findings on alternative metrics, and I know many of my constituents do, as well. It is long past time for the FAA to route flight paths more thoughtfully.”

Other Noise Provisions

The Quiet Skies Caucus’ provision was not in the omnibus appropriations bill itself but in the House Appropriations Committee’s report on the bill (go to p. 14 of the report here <https://www.gpo.gov/fdsys/pkg/CRPT-115hrpt237/pdf/CRPT-115hrpt237.pdf>)

The House Committee said in its report that it is encouraged by the additional measures the FAA is taking to enhance outreach to communities affected by new flight paths and recommends that FAA’s Air Traffic organization get an extra \$2 million to support its ongoing efforts to address community noise concerns.

Of that total \$2 million, \$250,000 is provided to help the FAA develop better tools for effective engagement with local communities and \$1,750,000 is provided to advance FAA’s operational procedure concepts, the House report said.

Meanwhile, the conference report on the omnibus appropriations bill adds that FAA be given “no less than

\$2,000,000 and eight full time equivalencies for regional offices to dedicate staff for activities to address aviation noise concerns, including community engagement.”

ANR will ask the House Appropriations Committee when Congress returns from its Easter break next week to clarify if the \$2 million referred to in the conference report is the same \$2 million referred to in the House report or in addition to it.

The House Appropriations Committee encouraged the FAA “to improve the development of flight procedures in ways that will reduce noise through procedure modification and dispersion to reduce the impact on local communities.

The Committee also said it supports research that is being conducted through the FAA’s Center of Excellence for Alternative Jet Fuel and Environment, also known as the Aviation Sustainability Center (ASCENT), on the impact of aviation noise on both sleep and cardiovascular health. The Committee directed FAA to prioritize this research.

The Senate Appropriations Committee’s report on the 2018 omnibus funding bill said the Committee “appreciates additional measures the FAA is taking to enhance outreach to communities affected by new flightpaths. The Committee encourages the FAA to improve the development of flight procedures in ways that will give fair consideration to public comment and reduce noise through procedure modification and dispersion to reduce the impact on local communities.

“The FAA should focus on methods that can produce measurable results. The FAA should give high priority to evaluating where increased noise levels disrupts homes and businesses, and threatens public health, and should provide all necessary resources to regional offices to work with local communities to meet this objective.”

Asked to comment on the noise provisions in the appropriations bill, Airlines for America said, in part, “The U.S. aviation industry works tirelessly to advance best practices in environmental stewardship for air travel. A key area of this commitment is the industry’s continuous efforts to minimize the amount of noise exposure for communities on the ground, while simultaneously improving the inflight experience for travelers in the air.

“We applaud Congress for recognizing the Federal Aviation Administration’s impactful work and education on aircraft noise reduction efforts throughout the aviation industry, including addressing any community concerns.”

NASA, from p. 41

ceived Level decibel (PLdB), instead of a sonic boom.

Once NASA accepts the aircraft from the contractor in late 2021, the agency will perform additional flight tests to prove the quiet supersonic technology works as designed, aircraft performance is robust, and it is safe to operate in the National Airspace System.

Beginning in mid-2022, NASA will begin flying the X-plane over select U.S. cities and collect data about community responses to the flights. Those flights will continue to

2025. NASA plans to conduct two community response fly-over tests per year for three years, for a total of four to six tests.

This data set will be provided to U.S. and international regulators for their use in considering new sound-based rules regarding supersonic flight over land, which could enable new commercial cargo and passenger markets in “faster than sound” air travel, NASA said.

The key to success for its Lbfd mission, the agency said, “will be to demonstrate the ability to fly supersonic, yet generate sonic booms so quiet, people on the ground will hardly notice them, if they hear them at all.”

All community response flights flown by the Lbfd will be heavily coordinated with city and state officials with an in-depth media plan to let the general public know of the flights, the reason for them, and how NASA will collect data.

NASA is working with the international community on questions to be asked in a survey it will administer to gauge community reaction to the Lbfd. The survey will be administered to not all but likely hundreds of residents within the area where the low boom will be heard, which stretches 25 miles on either side of the Lbfd during its flyovers.

Ed Waggoner, director of NASA’s Integrated Aircraft Systems Program, stressed that NASA wants to make sure the data collected is representative of the wide diversity of communities that will be impacted by overland SST flight. The Lbfd will be flown over large and small urban communities as well as suburban and rural communities.

The complete set of community response data is targeted for delivery in 2025 to the FAA and ICAO from which they can develop and adopt new rules based on perceived sound levels to allow commercial supersonic flight over land.

Not a Prototype

NASA stressed that the Lbfd is not a prototype for either a supersonic business jet or a supersonic commercial aircraft. However, aeronautical data provided by the demonstrator aircraft will be used in the design of future supersonic business and commercial jets.

The Lbfd includes no new technology; it will be propelled by a single General Electric F414 engine, the power plant used by F/A-18E/F fighters. The single cockpit is based on the design of the rear cockpit seat of the T-38 training jet famously used for years by astronauts to stay proficient in high-performance aircraft, NASA said.

What is new about the Lbfd is its shape, which, in turn, shapes the shockwave that will shadow the aircraft as it flies at supersonic speeds.

The Lbfd that Lockheed Martin will build makes a quiet sonic boom because of the way its uniquely-shaped hull generates supersonic shockwaves, NASA explained.

Shockwaves from a conventional aircraft design coalesce as they expand away from the airplane’s nose and tail, resulting in two distinct and thunderous sonic booms.

But the shape of the Lbfd design sends those shockwaves away from the aircraft in a way that prevents them

from coming together in two loud booms. Instead, the much weaker shockwaves reach the ground still separated, which will be heard as a quick series of soft thumps, NASA said.

“We’ve reached this important milestone only because of the work NASA has led with its many partners from other government agencies, the aerospace industry and forward-thinking academic institutions everywhere,” said Peter Coen, NASA’s Commercial Supersonic Technology project manager.

“There are so many people at NASA who have put in their very best efforts to get us to this point,” said Jaiwon Shin, Associate Administrator for NASA’s Aeronautics Research Missions Directorate.

East Hampton Airport

FAA AFFIRMS RIGHT TO FUND LITIGATION WITH AIRPORT REVENUE

The FAA has affirmed the NY Town of East Hampton’s right to use airport revenue to fund a legal defense of aircraft noise restrictions for East Hampton Airport, which were struck down in 2015, and to fund a Part 161 application supporting new airport noise restrictions now underway.

Using airport revenue “to litigate in court ... matters related to the operations of the airport, which includes addressing noise issues, real, perceived, justified or not, is not a violation” of grant assurance agreements with the FAA, the agency held in a March 26 determination issued in response to a Part 16 complaint filed by the National Business Aviation Association.

Airport revenue may be used for operating costs of an airport, which includes fees “related to airport-related legal issues,” FAA said in its ruling.

The agency also noted in its Part 16 determination that the use of airport revenues to support an application to impose an airport noise restriction under FAA’s Part 161 regulations on Notice and Approval of Airport Noise and Access Restrictions is an authorized expenditure.

In its Part 16 complaint filed with FAA in May 2015, NBAA, along with a number of aviation companies, charged that the Town had violated FAA Grant Assurance 25 on revenue diversion by using airport revenue to fund the litigation related to the Town’s proposed noise restrictions at its airport.

NBAA argued that “the Town is obligated to draw upon general funds and its tax base and not airport funds if it is to pursue an anti-airport agenda.”

But FAA ruled in its Part 16 determination that the town was within its rights, stating, “An airport sponsor may incur legal costs by enacting management or operational actions which may ultimately be found to be contrary to the airport’s federal obligations, but that is part of operating an airport ... This is true if the actions by the airport sponsor are perceived as ‘wrong’ by some or ‘right’ by others.”

The FAA’s determination finally puts to rest questions that

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were raised during the Town election last fall regarding the proper source of revenue for the airport’s legal fees, East Hampton said in a statement.

The Town said it “remains strongly committed” to addressing the impacts of noise generated by East Hampton Airport.

East Hampton is in the process of preparing a formal application under FAA’s Part 161 process “to seek approval of reasonable use and access restrictions at East Hampton Airport in order to provide meaningful noise relief.”

“The East Hampton Airport, while serving an important role in transportation to and from the East End, particularly in case of emergencies, nonetheless impacts the quality of life for numerous residents because of noise from aircraft, particularly helicopters,” said East Hampton Town Supervisor Peter Van Scoyoc.

“The ability to enact reasonable local laws, such as an overnight airport curfew – and defend them in court – is key to striking a balance that allows the airport to remain open under local control while also considering the needs of town resident,” Scoyoc added.

Town Councilwoman Kathee Burke-Gonzalez, former liaison to the airport, added, “The Director’ Determination validated what we have known all along – the Town has very right to use airport revenue to take legal actions to defend against them.”

“This is the outcome that was expected based on other airports’ use for their generated revenue. It is a gratifying conclusion as we move forward with the Part 161 process,” said Town Councilwoman Sylvia Overby, who, with Councilman Jeff Bragman, now serves as airport liaison.

Restrictions Struck Down in 2015

The U.S. Supreme Court in June 2017 denied a petition by the Town of East Hampton for review of an appellate ruling striking down three airport noise restrictions at East Hampton Airport (29 ANR 87).

A 2015 decision by the U.S. Court of Appeals for the Second Circuit held that the Airport Noise and Capacity Act of 1990’s procedural requirements “apply to public airport operators regardless of their federal funding status” (28 ANR 151).

The Town had argued that it was not subject to ANCA requirements (including the need to prepare a Part 161 cost/benefit study of proposed restrictions on Stage 3 aircraft) because it was willing to forego future federal Airport Improvement Program (AIP) grant funding for the airport and because the FAA had stated in an unsigned legal opinion that the Town was not required to engage in lengthy ANCA review and approval process to adopt reasonable noise restrictions.

But the appeals court rejected those arguments.

On Oct. 5, 2017, the East Hampton Town Board voted to proceed with a Part 161 study to support imposition of new noise or access restrictions at East Hampton Airport (29 ANR 129).

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A weekly update on litigation, regulations, and technological developments

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Legislation

NEW FAA REAUTHORIZATION BILL RETAINS SIGNIFICANT NOISE PROVISIONS OF 2017 BILL

On April 13, the bi-partisan leadership of the House Transportation and Infrastructure Committee introduced the FAA Reauthorization Act of 2018 (H.R. 4), a reauthorization of the FAA for the next five years that includes significant noise provisions sought by the House Quiet Skies Caucus and community groups.

The full House is expected to consider the bill next week.

H.R. 4 is almost identical to the legislation it replaces, H.R. 2997, which was introduced in 2017 but stalled over opposition to a provision, strongly backed by the airlines, that would have privatized FAA's air traffic system.

Committee Chairman Bill Shuster (D-PA) dropped the privatization provision, which he had fought hard to see enacted, in late February due to lack of support and strong opposition by the National Business Aviation Association. Shuster also announced his retirement from Congress.

Like its predecessor, an entire subtitle of H.R. 4 addresses mainly airport noise concerns. Noise provisions in Subtitle D - Airport Noise and Environmental

(Continued on p. 46)

NASA

QUIET SST FLIGHT SERIES WILL VALIDATE NASA COMMUNITY RESPONSE TECHNIQUE

[Following is an April 17 NASA news feature by Matt Kamlet of NASA's Armstrong Flight Research Center.]

An upcoming NASA supersonic research flight series will examine methodology and technology to be used in future community response testing with the agency's Low-Boom Flight Demonstrator aircraft, or LBFD.

The flight series, called Quiet Supersonic Flights 2018, or QSF18, will use a NASA F/A-18 research aircraft performing a unique supersonic dive maneuver that produces a sound similar to a soft "thump" in comparison to the sonic boom typically associated with supersonic flight. The goal of the flights is to study techniques for obtaining accurate community response data, using surveys, to the reduced sounds of supersonic flight over a community that is relatively unfamiliar with these sounds.

The flights will be conducted by teams from NASA's Armstrong Flight Research Center in California, Langley Research Center in Virginia, and Johnson

(Continued on p. 47)

In This Issue...

Legislation ... Significant noise provisions are retained in a new FAA reauthorization bill introduced by the bi-partisan leadership of the House T&I Committee that will be voted on by the full House next week.

The bill would require, among other things, an institution of higher learning to conduct a study on the health impacts of living under NextGen flight paths in at least seven metropolitan areas - p. 45

SSTs ... NASA will conduct a series of flights over Galveston in November with F/A 18 aircraft to validate methods to be used in future community response testing of the agency's Low-Boom Flight Demonstrator - p. 45

FAA Annoyance Survey ... FAA asks OMB to approve second extension of time to collect annoyance survey data; may indicate agency is getting ready to announce that it will not release survey results by June - p. 48

Legislation, from p. 45

Streamlining, would:

- Require the Comptroller General of the U.S. to review the potential costs and benefits of phasing out Stage 3 aircraft that cannot meet more stringent Stage 4 noise certification standards and to assess the impact of a phaseout or reduction of Stage 3 aircraft operations on air carriers, general aviation operators, airports, communities surrounding airports, and the general public.

- Require FAA to enter into an agreement with an institution of higher education to study, for no longer than three years, the “incremental health impacts” attributable to noise exposure that results from aircraft flights, including sleep disturbance and elevated blood pressure, on residents in at least seven metropolitan areas: Boston, Chicago, District of Columbia, New York, the Northern California Metroplex, Phoenix, and the Southern California Metroplex, or “such other area as may be identified by the Administrator.”

D.C. and the Southern California Metroplex area were not among the metropolitan areas that must be included in the health effects study in the earlier FAA reauthorization bill (H.R. 2997) but they are areas where lawsuits challenging FAA’s NextGen airspace changes have been filed.

The study must consider “the incremental health impacts on residents living partly or wholly underneath flight paths most frequently used by aircraft flying at an altitude lower than 10,000 ft. including during takeoff or landing.”

The study also must include “an assessment of the relationship between a perceived increase in aircraft noise, including as a result of a change in flight paths that increases the visibility of aircraft from a certain location and an actual increase in aircraft noise, particularly in areas with high or variable levels of non-aircraft-related ambient noise.”

- Require the FAA Administrator – when proposing a new area navigation departure procedure or amending an existing procedure that would direct aircraft between the surface and 6,000 feet AGL over noise sensitive areas – to consider the feasibility of dispersal headings or other lateral track variation to address community noise concerns if:

- (1) the affected airport operator, in consultation with the affected community, submits a request to the FAA Administrator;

- (2) the airport operator’s request would not, in the judgment of the Administrator, conflict with the safe and efficient operation of the national airspace; and

- (3) the effect of a modified departure procedure would not significantly increase noise over noise sensitive areas, as determined by the Administrator.

- Require the FAA Administrator to review the relationship between aircraft noise exposure and its effects on communities around airports and to include preliminary recommendations on the appropriateness of revising Part 150

land use compatibility guidelines which set the 65 DNL contour as the threshold for residential compatibility with airports.

- Require FAA to review and recommend how to improve its community involvement practices for NextGen projects located in metroplexes identified by the FAA Administrator.

FAA must define, at a minimum, how and when it will engage airports and communities in performance-based navigation proposals.

The FAA must submit a report to Congress on:

- (1) how the FAA will improve community involvement practices for NextGen projects located in metroplexes;

- (2) how and when the FAA will engage airports and communities in performance-based navigation proposals; and

- (3) lessons learned from NextGen projects and pilot programs and how those lessons learned are being integrated into community involvement practices for future NextGen projects located in metroplexes.

- Require the FAA to conduct a not longer than two-year review “of the relationship between aircraft noise exposure and its effects on communities around airports.”

At the end of this review, the FAA Administrator must present a report to Congress with preliminary recommendations “as the Administrator determines appropriate for revising the land use compatibility guidelines in Part 150, title 14, Code of Federal Regulations, based on the results of the review and in coordination with other agencies.”

- Clarify that airport noise exposure maps must be updated “if, in an area surrounding an airport, a change in the operation of the airport would establish a substantial new non-compatible use, or would significantly reduce noise over existing non-compatible uses, that is not reflected in either the existing conditions map or forecast map currently on file with the FAA.”

Submission of an updated noise exposure map is required only if the relevant change in the operation of the airport occurs during the forecast period of the applicable noise exposure map submitted by an airport operator or during the implementation period of the airport operators’ noise compatibility program.

- Extend grant authority for compatible land use planning and projects by state and local governments from 2018 to 2023;

- Establish an Environmental Mitigation Pilot Program within FAA involving up to six projects at public-use airports to “measurably” reduce or mitigate aviation impacts on noise, air quality, or water quality at the airport or within five miles of it.

No single project can receive more than \$2.5 million in grant support and FAA’s share of the project cost cannot exceed 50 percent.

AIP/PFC Funding

H.R. 4 also would provide a steady level of funding for FAA's Airport Improvement Program, which provides federal grants to support various airport projects, including those mitigating aircraft noise impacts.

The legislation would authorize AIP funding at a level of \$3.35 billion for each of fiscal years 2018 through 2023.

Regarding Passenger Facility Charges, H.R. 4 does not lift the \$4.50 cap on PFCs that airport operators have sought for years.

Civil Supersonic Aircraft

H.R. 4 incorporates an amendment on civil supersonic aircraft added to the previous FAA reauthorization bill (H.R. 2997) by Rep. Mark Sandford (R-SC).

Section 528 of H.R. 4 would require FAA to exercise leadership in the creation of federal and international policies, regulations, and standards relating to the certification of safe and efficient operation of civil supersonic aircraft.

Section 528 also would require the FAA to obtain the input of aerospace industry stakeholders regarding:

- The appropriate framework and timeline for permitting the safe and efficient operation of civil supersonic aircraft within U.S. airspace; and
- Issues related to standards and regulations for the type certification and safe operation of civil supersonic aircraft, including noise certification, including:
 - (1) the operational differences between subsonic aircraft and supersonic aircraft;
 - (2) costs and benefits associated with landing and takeoff noise requirements for civil supersonic aircraft, including impacts on aircraft emissions;
 - (3) public and economic benefits of the operation of civil supersonic aircraft and associated aerospace industry activity; and
 - (4) challenges relating to ensuring that standards and regulations aimed at relieving and protecting the public health and welfare from aircraft noise and sonic booms are economically reasonable, technologically practicable, and appropriate for civil supersonic aircraft.

Section 528 of H.R. 4 would require FAA, within one year, to submit a report to the House Transportation and Infrastructure Committee and the Senate Commerce Committee detailing, among other things:

- “planned, proposed, and anticipated actions to update or modify existing policies and regulations related to civil supersonic aircraft, including those identified as a result of industry consultation and feedback,” and
- “a timeline for any actions to be taken to update or modify existing policies and regulations related to civil supersonic aircraft.”

The text of H.R. 4 is available on the House T&I Committee's website at <https://transportation.house.gov/faa/>

SSTs, from p. 45

Space Center in Texas, and will take place in the area of Galveston, Texas, in November 2018.

This effort will provide key information to support planning for the future LBFD community response flights, which will begin as early as 2022. The LBFD flights, in turn, will provide data supporting new noise standards for supersonic flight over land. These new standards will replace current restrictions, which are in place due to the sonic boom produced by aircraft that fly faster than the speed of sound.

Learning Best Ways to Collect Data

“We are doing important research that is a precursor to a national effort to understand how people react to the sound of a quiet supersonic aircraft flying overhead,” said Commercial Supersonic Technology Project Manager Peter Coen. “We are learning about the best ways to engage communities, collect acoustic data, and conduct surveys of in response to sounds that people in a community normally do not hear.”

NASA has conducted similar research in the past to develop and advance community response technology and methods. The Waveforms and Sonic boom Perception and Response project, or WSPR, took place in 2011 at Edwards Air Force Base in California, where sonic booms are relatively common.

In that research project, 100 volunteer residents of Edwards used a questionnaire to provide feedback on low-amplitude “thumps” created with the F/A-18 quiet dive maneuver. WSPR, and subsequent research flight series at Edwards, further developed data collection methods and test protocols.

In QSF18, NASA will put those techniques to the test over a community that is not used to hearing the sounds of supersonic flight.

The data from this flight series will provide direct insight into the community response element for future LBFD flights, which will fly over numerous communities in the United States to collect a large database that fully represents community response to quiet supersonic flight.

The research in Galveston will be conducted by flying the F/A-18 in an oval flight pattern offshore, where it will dive from approximately 49,000 feet and briefly go supersonic, before recovering to level flight at approximately 30,000 feet. This type of dive produces a sonic boom in such a way that the sound is perceived in a specific area as a quieter “thump”, similar to the predicted sound signature of LBFD. NASA also will operate audio sensors in the area to measure the acoustic levels of this sound.

“We’ve performed similar research flights in the past to prove that our flights are safe and that the sounds we plan to create are not dangerous or damaging,” said Coen.

QSF18 also marks a unique collaboration between NASA's aeronautics and human spaceflight programs. Part of the decision to engage the city of Galveston for this research was its proximity to the Johnson Space Center, located ap-

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proximately 30 miles north of the island, which is best known as the home of NASA's astronauts and Mission Control Center.

"This is a great opportunity for us to participate in another exciting area of NASA research," said Melanie Saunders, Johnson's acting deputy center director. "The agency's Aeronautics Research Mission Directorate is doing work that could help air travelers everywhere in the future, and we're looking forward to be part of it."

QSF18 is an element of NASA's Commercial Supersonic Technology project, one of the many Aeronautics Research Mission Directorate efforts that supports the motto - NASA is with you when you fly!

FAA Annoyance Survey

FAA ASKS OMB FOR SECOND EXTENSION OF ANNOYANCE DATA COLLECTION

FAA appears to be getting ready to announce another delay in the release of the results of an annoyance survey it has been conducting since 2015 in communities around 20 U.S. airports that will determine whether the agency needs to update its 40-year-old aircraft noise policy.

The survey findings will determine whether FAA needs to develop a new dose/response curve relating the percentage of people highly annoyed by aircraft noise to noise levels and whether the FAA needs to reevaluate the use of DNL 65 dB as the threshold of significant noise impact around airports.

On April 13, the FAA announced in the *Federal Register* that it was seeking approval from the federal Office of Management and Budget to renew its authority to continue collecting survey information. FAA had sought a similar extension of OMB approval on Nov. 30, 2017.

ANR asked the agency whether this second request to extend the survey data collection meant that the FAA was not going to be able to meet its earlier announcement that the survey results would be issued by June.

FAA said it hoped to respond to ANR's question by the end of today but, as of 4 p.m., has not.

ANR will send out FAA's response to subscribers when it is received.

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Legislation

HOUSE PASSES FAA REAUTHORIZATION BILL WITH AT LEAST 10 NOISE AMENDMENTS

By a vote of 393 to 13, the House of Representatives today passed H.R.4, the FAA Reauthorization Act of 2018, a five-year bill that includes a major subtitle on aircraft noise as well as at least 10 amendments addressing noise.

Some 44 amendments dealing with aircraft noise issues – many with bipartisan support – were proposed under the rule adopted to consider the bill, an indication of how significant a problem the constant, focused noise impact from NextGen flight procedures has become for constituents of members of Congress, especially in areas where FAA has implemented a metroplex airspace revision plan.

“I’ve never seen anything like this,” Rep. Anna Eshoo (D-CA) said on the House floor of the public’s reaction to airspace changes made in 2015 under FAA’s Northern California Metroplex Plan, which increased aircraft noise complaints by over 1,000 percent.

The Rules Committee allowed 13 of the 44 proposed noise amendments, some of which were revised from their original form and most of which were proposed

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ACRP

TOOLS FOR PREDICTING NOISE, SONIC BOOM FROM COMMERCIAL SPACE OPS RELEASED

On April 24, the Transportation Research Board released a user guide for two tools developed to predict noise and sonic boom from commercial space operation launches and also released a contractor report detailing the methodologies used to develop these tools.

“Commercial space launch vehicle activities are expected to continue to increase. As they begin testing and become operational, many noise issues as well as the effects from sonic booms will need to be evaluated,” TRB Staff Officer Marci Greenberger explained in the Foreword to the first Airport Cooperative Research Program report: *ACRP Research Report 183: User Guides for Noise Modeling of Commercial Space Operations – RUMBLE and PCBoom*.

“The Aviation Environmental Design Tool (AEDT) is designed to evaluate the effects of noise and emissions from aircraft but doesn’t have the ability to predict noise and sonic boom effects from commercial space operations,” Greenberger said.

“Two tools were developed in this project to predict noise and sonic boom to be

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In This Issue...

Legislation ... Congress passes a five-year FAA reauthorization bill that includes an entire subtitle on aircraft noise as well as at least 10 amendments addressing noise.

The most significant of these amendments would direct FAA to evaluate alternative noise metrics to DNL; to develop a five-year aircraft noise research and mitigation strategy; to study vectoring flights on overcrowded departure and arrival flight paths, and to evaluate whether a decrease in aircraft takeoff and landing speed could be used as a safe and effective noise mitigation tool - p. 45

ACRP ... TRB issues two documents developed to predict noise and sonic boom from commercial space operations - p. 49

FAA Annoyance Survey ... Still no comment from FAA on whether it will once again delay issuance of the results of its long overdue community annoyance survey - p. 52

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by members of the House Quiet Skies Caucus, to be voted on. The approved amendments:

- Add a requirement that a study of the relationship between aircraft noise exposure and its effect on communities around airport also “consider harm or benefits to businesses located partly or wholly underneath flight paths most frequently used by aircraft flying at an altitude lower than 10,000 feet, including during takeoff or landing.”

- Add the City of Seattle to the list of communities that must be included in a study of “incremental health impacts” attributable to noise exposure that results from aircraft flight, including sleep disturbance and elevated blood pressure, on residents in at least seven metropolitan areas, including Boston, Chicago, District of Columbia, New York, the Northern California Metroplex, Phoenix, and the Southern California Metroplex.

- Direct the FAA Administrator to initiate a study to review and evaluate existing studies and analyses of the relationship between jet aircraft approach and takeoff speeds and corresponding noise impacts on communities surrounding airports.

In the study, the FAA Administrator must determine:

- (1) whether a decrease in jet aircraft approach or takeoff speeds results in significant aircraft noise reductions;

- (2) whether the jet aircraft approach or takeoff speed reduction necessary to achieve significant noise reductions:

- (A) jeopardizes aviation safety or

- (B) decreases the efficiency of the National Airspace System, including lowering airport capacity, increasing travel times, or increasing fuel burn, and

- (3) the advisability of using jet aircraft approach or takeoff speeds as a noise mitigation technique, and

- (4) if the Administrator determines that using jet aircraft approach or takeoff speeds as a noise mitigation technique is advisable, whether any of the metropolitan areas specifically identified in section 157(b)(2) would benefit from such a noise mitigation technique without a significant impact to aviation safety or the efficiency of the National Airspace System.

A report on the study must be submitted to the House T&I Committee and the Senate Commerce Committee no later than two years after enactment of H.R. 4.

The impetus for this amendment was a finding by an MIT aeronautics professor in a noise study at Boston Logan International Airport that slowing aircraft departure speed by about 30 knots (35 mph) – to the point at which airframe and engine noise are equal – could significantly reduce noise on the ground (30 ANR 25)

Rep. Peter DeFazio (D-OR), Ranking Member of the House T&I Committee, said he had discussed this finding with Acting FAA Administrator Dan Elwell, who agreed that

it could mitigate aircraft noise impact.

The MIT professor’s finding was the subject of a *Wall Street Journal* story that was widely read but airlines appeared lukewarm to the idea.

- Permit the Secretary of Transportation to carry out an aircraft noise, emissions, and fuel burn reduction research and development program. This amendment protects FAA’s Continuous Lower Energy, Emissions and Noise (CLEEN II) Program, which is already underway.

- Require a GAO report studying:

- (1) While maintaining safety as the top priority, whether air traffic controllers and airspace designers are trained on noise and health impact mitigation in addition to efficiency; and

- (2) The prevalence of vectoring flights due to overcrowded departure and arrival paths, and alternatives to this practice.

- Require the FAA Administrator to initiate a 10-year pilot program to permit the operator of a Stage 2 airplane to operate the plane in non-revenue service into medium hub airports or non-hub airports if certain parameters are met.

This amendment will allow Stage 2 aircraft used for cargo operations in the Caribbean, which are no longer legally able to operate in the continental U.S., to fly into small airports in Louisiana for maintenance services if the local residents do not object.

Rep. DeFazio strongly objected to the amendment but it had the support T&I Committee Chairman Bill Shuster (R-PA), who said it would provide employment for Louisiana residents.

- Direct the FAA Administrator to conduct a study evaluating alternative metrics to the current average day night level standard, such as the use of actual noise sampling and other methods, to address community airplane noise concerns and provide a report to Congress. A report on the results of the study must be submitted to Congress no later than 180 days after H.R. 4 is enacted.

This amendment was proposed by 17 members of the House Quiet Skies Caucus.

- Require FAA to develop a five-year aircraft noise research and mitigation strategy and to submit that plan to the House Committees on Transportation and Infrastructure; Science, Space and Technology; and Appropriations and to the Senate Commerce and Appropriation Committees no later than one year after H.R. 4 is enacted.

- Require the FAA within one year of enactment of H.R. 4 to complete the ongoing evaluation of alternative metrics to the current Day Night Level (DNL) 65 standard [65 DNL is FAA’s threshold for compatible residential use around airports].

- Require the FAA Administrator to review the North Shore Helicopter Route to address the noise impact on affected communities to improve altitude enforcement, and to assess alternatives including an all water route over the Atlantic Ocean.

Failed Noise Amendments

The following three proposed noise amendments did not pass. They would have:

- Ensured that aircraft transitioning from flight over ocean to flight over land fly at safe altitude and no lower than specific flight operations require [to reduce noise impact].

- Required FAA to review and revise helicopter flight paths for all helicopters, including military helicopters, flying in the National Capital Region (Washington, D.C. area), identifying and issuing new official paths if helicopters are able to fly at higher altitudes.

- Directed the FAA Administrator to engage and cooperate with air carriers to identify and facilitate opportunities for air carriers to retrofit aircraft with devices that mitigate noise including vortex generators [which quiet the whine of MD 80 aircraft].

ANR may have missed other amendments to H.R. 4 that were approved and could indirectly address aircraft noise. ANR will report on those, if any, next week.

Next week, ANR also will provide comment and analysis on the bill from various stakeholders.

The Senate now must take up and pass an FAA reauthorization bill. Focus on that begins soon.

Noise Provisions in Subtitle D of H.R. 4

Noise provisions in Subtitle D of H.R. 4, which addresses aircraft noise, were reported by ANR last week, when the legislation was introduced (30 ANR 45). Those provisions will:

- Require the Comptroller General of the U.S. to review the potential costs and benefits of phasing out Stage 3 aircraft that cannot meet more stringent Stage 4 noise certification standards and to assess the impact of a phaseout or reduction of Stage 3 aircraft operations on air carriers, general aviation operators, airports, communities surrounding airports, and the general public.

- Require FAA to enter into an agreement with an institution of higher education to study, for no longer than three years, the “incremental health impacts” attributable to noise exposure that results from aircraft flights, including sleep disturbance and elevated blood pressure, on residents in at least seven metropolitan areas.

- Require the FAA Administrator – when proposing a new area navigation departure procedure or amending an existing

procedure that would direct aircraft between the surface and 6,000 feet AGL over noise sensitive areas – to consider the feasibility of dispersal headings or other lateral track variation to address community noise concerns .

- Require the FAA Administrator to review the relationship between aircraft noise exposure and its effects on communities around airports and to include preliminary recommendations on the appropriateness of revising Part 150 land use compatibility guidelines which set the 65 DNL contour as the threshold for residential compatibility with airports.

- Require FAA to review and recommend how to improve its community involvement practices for NextGen projects located in metroplexes identified by the FAA Administrator.

- Require the FAA to conduct a not longer than two-year review “of the relationship between aircraft noise exposure and its effects on communities around airports.”

At the end of this review, the FAA Administrator must present a report to Congress with preliminary recommendations “as the Administrator determines appropriate for revising the land use compatibility guidelines in Part 150, title 14, Code of Federal Regulations, based on the results of the review and in coordination with other agencies.”

- Clarify that airport noise exposure maps must be updated “if, in an area surrounding an airport, a change in the operation of the airport would establish a substantial new non-compatible use, or would significantly reduce noise over existing non-compatible uses, that is not reflected in either the existing conditions map or forecast map currently on file with the FAA.”

- Extend grant authority for compatible land use planning and projects by state and local governments from 2018 to 2023;

- Establish an Environmental Mitigation Pilot Program within FAA involving up to six projects at public-use airports to “measurably” reduce or mitigate aviation impacts on noise, air quality, or water quality at the airport or within five miles of it.

AIP, PFC Funding/Supersonic Aircraft

H.R. 4 also would provide a steady level of funding for FAA’s Airport Improvement Program, which provides federal grants to support various airport projects, including those mitigating aircraft noise impacts.

The legislation would authorize AIP funding at a level of \$3.35 billion for each of fiscal years 2018 through 2023.

Regarding Passenger Facility Charges, H.R. 4 does not lift the \$4.50 cap on PFCs that airport operators have sought for years.

H.R. 4 also incorporates an amendment on civil super-

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sonic aircraft added to the previous FAA reauthorization bill (H.R. 2997) by Rep. Mark Sanford (R-SC). Section 528 of H.R. 4 would require FAA to exercise leadership in the creation of federal and international policies, regulations, and standards relating to the certification of safe and efficient operation of civil supersonic aircraft.

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used in the noise modeling evaluation process. RUMBLE 2.0 predicts rocket noise, and PCBoom4 was modified to predict sonic boom from commercial space operations.

ACRP Research Report 183 is the user’s guide for each tool and can be downloaded at <http://www.trb.org/main/blurbs/177510.aspx>

ACRP Web-Only Document 33: Commercial Space Operations Noise and Sonic Boom Modeling and Analysis is the contractor’s final report on the methodology and development of these tools and can be downloaded at <http://www.trb.org/main/blurbs/177515.aspx>

“The impacts from commercial space operations are dependent on variables such as the number of operations, the launch pad configuration, and the type of launch vehicle,” Greenberger wrote in the Foreword.

“While those are just some of the factors, no data on the noise parameters of launch vehicles nor a method developed that can be used with AEDT for environmental analysis has been compiled.

“Wyle Laboratories, as part of ACRP Project 02-66, was selected to develop two models that can be integrated with AEDT to evaluate rocket noise and sonic boom. The models are based on a database that compiles information on the vehicles and engine/motors used. The models user’s guide is recommended before or while using either model.”

The software for PCBoom and RUMBLE can be found on the TRB website by searching for ACRP Research Report 183.

In Brief...

FAA Annoyance Survey Results

FAA had promised last week to give ANR an update on Monday regarding whether the agency will delay issuance of the findings of its survey of community annoyance to aircraft noise.

FAA did not provide that update despite inquiries by ANR.

ANR would not be surprised if FAA soon announces yet another delay in releasing the survey results, which had been expected by June.

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Airport Noise Report



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Legislation

AMENDMENT SAVES FUNDING LEVEL OF FAA ENVIRONMENTAL R&D FROM SEVERE CUTS

The aerospace industry and local elected officials were both pleased that the final FAA reauthorization bill passed by Congress last Friday removed a provision that would have severely restricted funding for FAA's environmental and noise-related research activities.

An amendment to the FAA Reauthorization Act of 2018 (H.R. 4) offered by Reps. Barbara Comstock (R-VA), Rick Larsen (D-WA), Cathy McMorris Rogers (R-WA), and Karen Bass (D-CA) struck a provision in Title VII, Section 703(a) of H.R. 4 that, as written, would have cut the funding level for FAA environmental sustainability research and development programs by over 50 percent from the current \$43 million funding level.

Rep. Bass said their amendment also struck a "poison pill" in H.R. 4 (in section 703(b) of Title VII) that proposed a contingency funding provision that would have nullified the authorization for FAA's environmental R&D program entirely should appropriators decline to appropriate full funding to certain other unrelated pro-

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Legislation

GRASSROOTS GROUPS, N.O.I.S.E., ONCC PLEASSED WITH FAA REAUTHORIZATION BILL

Several anti-noise grassroots community groups, the National Organization to Insure a Sound-controlled Environment (N.O.I.S.E), and the O'Hare Noise Compatibility Commission were pleased with the 11 amendments addressing aircraft noise that were added to the FAA Reauthorization Act of 2018, which passed the House on April 27.

Queens Quiet Skies thanked the Congressional Quiet Skies Caucus, whose members authored all but one of the noise amendments approved by the House and worked hard for their passage, "for representing the interests of millions of residents of communities negatively affected by aviation noise and pollution."

"Our health and quality of life are more important than increasing profits for the airline industry," Janet McEneaney, a founding member of the group, told ANR.

The noise amendments added to the five-year FAA reauthorization bill – which were developed with input from constituents of the Quiet Skies Caucus members – require FAA to conduct studies on the effect of aircraft noise on communities near airports; on health effects attributable to aircraft noise exposure in nine metropoli-

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... N.O.I.S.E., community groups, ONCC pleased with noise amendments to House FAA reauth. bill - p. 53

Complaints ... FAA again asks for public comments on its intention to seek OMB approval to establish online aircraft noise complaint and inquiry system called the FAA Noise Portal - p. 54

NorCal Metroplex ... Rep. Jackie Speier (D-CA) says she is "more than deeply disappointed" that FAA has stopped work designing a procedure that would give her constituents relief from night flights - p. 55

Annoyance Survey ... FAA still won't say when it expects to release the findings of its annoyance survey of communities around 20 U.S. airports, which has been underway since 2014 - p. 56

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grams.

The Aerospace Industries Association said it appreciated the efforts of Rep. Comstock and colleagues in sponsoring the amendment that preserved funding for FAA's environmental R&D program.

The National Organization to Ensure and Sound-controlled Environment (N.O.I.S.E.), which mainly represents elected representatives of communities impacted by aircraft noise, also was relieved that FAA's environmental R&D program funding will be maintained at its current level.

N.O.I.S.E. is a member of ASCENT (FAA's Center of Excellence on Alternative Jet Fuels and the Environment).

"ASCENT provided critical research and analytic support to the FAA on environmental research issues with the support of industry. This nationwide consortium of 16 universities helps FAA maintain its scientific leadership in international decision-making bodies including the International Civil Aviation Organization's Committee on Aviation Environmental Protection (CAEP).

"Since its establishment four years ago, the FAA has provided \$38.4 million to ASCENT to support the industry," NOISE asserted in supporting passage of Rep. Comstock's amendment.

ANR reported on 10 other noise amendments to the FAA Reauthorization Act of 2018 last week (30 ANR 49).

Regarding those amendments, Rep. Bass said, "It's long past time for Congress to address airplane noise and its harms. Increasing airline efficiency must not and cannot require the sacrifice of health and well-being of those on the ground."

Rep. Dana Rohrabacher (R-CA) introduced an amendment to H.R. 4, which failed to pass, that would have required the FAA to change the priorities by which it evaluates airspace procedures to lift impacts on communities above improving airspace efficiency.

FAA

FAA AGAIN SEEKS COMMENT ON NOISE COMPLAINT PORTAL

On April 27, the FAA issued its second notice inviting the public to comment on the agency's intention to seek Office of Management and Budget approval to establish an online aircraft noise complaint and inquiry system called the FAA Noise Portal.

The public has until May 29 to submit comments to OMB on the Noise Portal, which FAA says would allow it to more efficiently and effectively address the noise complaints or inquiries it receives.

An identical notice seeking public comment on the FAA Noise Portal was issued on Nov. 2, 2017 (29 ANR 143). The duplicative process is to satisfy OMB that it has sufficient in-

formation to determine if should approve FAA the new information collection.

Under the Paperwork Reduction Act of 1995, FAA is required to invite public comment on its intention to seek OMB approval for voluntary information collections. Those filing complaints through FAA's Noise Portal would have to voluntarily provide information such as their name, email address, street or cross street, city, state, zip code, and a description of the aircraft noise complaint or inquiry.

FAA said in its April 27 notice that it had received comments on its earlier Nov. 2, 2017, notice from 21 individuals, two aviation organizations (Airlines for America and the Airports Council International – North America), the Port of Seattle, and the cities of SeaTac, WA, and College Park, GA. These comments were not made public.

Several of the parties commenting on the Noise Portal questioned what the FAA would do with the data it collects, FAA noted in its April 27 *Federal Register* notice.

FAA explained that it would use the data to identify common complaints or inquiries "so we could post commonly asked questions and answers to the regional websites to inform those interested upfront without their having to submit a complaint or inquiry through the FAA Noise Portal." The agency also said it may use the data to identify trends in FAA related noise concerns.

Others commenting of the Noise Portal were concerned that the FAA would duplicate efforts by airports that already have noise complaint systems. FAA said it is aware of these airport noise complaint systems and will provide links to them on its regional noise websites. FAA also will coordinate with ACI-NA to minimize any duplication in efforts between the FAA and airport sponsors.

"Currently," FAA explained, "there is no clear FAA process or point of entry for the public to submit noise complaints and inquiries. As a result, public noise complaints and inquiries are forwarded within the FAA until the appropriate person or organization responds. This creates a delay in FAA responses to the public."

The FAA Noise Portal includes required and optional fields for the public to complete. Once completed, the information is automatically sent to the FAA Regional Administrator's Office or Noise Ombudsman who in turn assigns it to the appropriate FAA office to respond to the complaint or inquiry within a specified time frame. All incoming complaints and inquiries are automatically entered into an FAA database that can be tracked to ensure timely responses and queried for informational purposes.

A public link to the FAA Noise Portal will be posted on each of the nine FAA regional websites and the FAA Headquarters Noise Ombudsman website.

Directions on how to submit comments to OMB on the FAA Noise Portal are included in FAA's *Federal Register* notice. Google "April 27, 2018, Federal Register" and scroll down to FAA.

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tan areas; on whether slowing aircraft approach and takeoff speeds could be a feasible noise mitigation technique; and on alternative noise metrics to DNL, and to develop a five-year noise research and mitigation strategy.

“In the final version of the bill, we want to see more concrete directions to the FAA to act on the results of all those studies. In a 5-year plan, we ought to get 5 years’ worth of improvements. There’s still an opportunity for Congress to mandate direct action and real change by the FAA,” McEneaney stressed.

Everything FAA Needs ‘To Do The Right Thing’

With the noise provisions in the FAA reauthorization bill, FAA has “everything it needs to do the right thing,” Jennifer Landesmann of Sky Posse Palo Alto, told ANR,

The California grassroots group is fighting to mitigate the noise impact of airspace changes made under FAA’s Northern California Metroplex Initiative.

“The previous 2012 [FAA reauthorization] legislation mandated for Nextgen to reduce fuel burn, emissions, and noise. Instead, after 2012 noise has increased and erupted in unprecedented amounts in communities as far as 60 miles from airports,” she said, adding:

“The amendment directing the Administrator of the Federal Aviation Administration to ‘evaluate alternative metrics to the current average day night level standard, such as the use of actual noise sampling and other methods,’ can help as the current FAA single metric to assess impact is discredited for being outdated and inadequate.

“Every day that FAA takes to delay in changing their noise impact screening methods and rules, the affected public is disenfranchised because every day FAA rolls out new Nextgen procedures without anyone (not FAA, their consultants, or any of the professionals designing routes) having objective basis, knowledge or full understanding of what is really happening on the ground.

“FAA earns the privilege to make changes to our airspace by being judicious in their decision making, with informed decisions to take actions, which is not the case at this time.”

N.O.I.S.E. Encouraged

N.O.I.S.E. President Brad Pierce, who serves as a City of Aurora, CO, Council Member, said his organization “is encouraged that Congress has demonstrated the commitment to working with the FAA to address the impacts of aviation noise in the House version of the FAA bill passed last week.

“Further, we support the necessary communication and dialogue between Members of Congress and their impacted constituents as well as between leadership in committees of jurisdiction and the FAA with industry stakeholders, to ensure community concerns are considered before any legislative and regulatory changes are made at the federal level that impact noise.”

Noise Issues of ‘Utmost Concern’

Jeanette Camacho, Executive Director of the O’Hare Noise Compatibility Commission, said ONCC members were pleased to learn of the passage of the FAA Reauthorization Bill, H.R.4, and are extremely interested in several key noise-related amendments included in the bill.

“Many of these issues are of the utmost concern to ONCC members, and the Commission has had ongoing dialog about several of these topics in our meetings, panel discussions, and committee deliberations.

“We appreciate the efforts of the members of the Quiet Skies Caucus, most notably the members who are engaged in the work of the ONCC and whose representatives regularly attend our meetings - Congressman Mike Quigley and Congresswoman Jan Schakowsky - as well as Congressman Raja Krishnamoorthi.

“We are encouraged to see action proposed on these matters that have substantial impact on the day-to-day lives of our residents. As O’Hare continues to evolve and adapt and enters the next phase of development, many of these proposed studies and analyses will become increasingly crucial in the relationship between the airport and its surrounding communities.”

NoCal Metroplex

SPEIER ‘MORE THAN DEEPLY DISAPPOINTED’ IN PROGRESS REPORT

Rep. Jackie Speier (D-CA) said she is “more than deeply disappointed” with FAA’s latest update on its effort to reduce the noise impact of airspace changes made under the agency’s Northern California (NorCal) Metroplex Initiative on residents of Santa Cruz, Santa Clara, San Mateo, and San Francisco Counties.

In March, Reps. Speier, Anna Eshoo (D-CA), and Jimmy Panetta (D-CA), who represent communities in the San Francisco Bay area south of San Francisco International Airport, asked FAA for an updated report with a timeline on when the agency expected to implement NorCal noise mitigation recommendations developed by the Select Committee on South Bay Arrivals and the SFO Airport/Community Roundtable.

The FAA issued that report in April. It can be downloaded at <https://eshoo.house.gov/wp-content/uploads/2018/04/NorCal-Update-April-2018-Final.pdf>

The report details the status of progress on 34 recommendations by the two committees. An earlier report issued in November 2017 had documents progress on 104 recommendations (29 ANR 183).

Rep. Speier said that what disappointed her in the latest FAA update was that the agency “has unilaterally changed course and halted the design of the NIITE Departure south-bound transition [procedure] which would bring relief to thousands of my constituents whose sleep is disrupted multiple times during the night.”

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In two previous reports, she said, the FAA had determined that the NIITE departure southbound transition would be feasible and last year started the standard design process. Now the FAA has abruptly hit the brakes and stopped the design process.”

“The FAA must go back to the design board and continue the process it started last year if it expects to have credibility with the community of interest that worked so hard on this process,” Speier said.

In its report, FAA explained that design work on the NIITE Departure southbound transition “has been temporarily delayed until issues associated with congestion, anticipated noise-shifting concerns, and increased flight distances have been addressed with airline stakeholders and the affected communities within the jurisdictions of the Select Committee and SFO Roundtable.”

Annoyance Survey

FAA WILL NOT SAY WHEN RESULTS OF ANNOYANCE SURVEY WILL BE OUT

FAA won't say when the results of the Neighborhood Environmental Survey it has been conducting around 20 U.S. airports since 2014 will be released.

The survey results, which will determine if the agency needs to update its 40-year-old aircraft noise policy and the dose/response curve it uses to estimate community annoyance to aircraft noise, were expected in June.

However, on April 13, FAA issued a notice in the *Federal Register* announcing it was again seeking OMB approval to extend the data collection for the survey. An identical notice was published last November. Asked on April 16 why a second notice was issued for the data collection extension, FAA finally responded on May 3:

“The process for extending a collection requires two *Federal Register* Notices. The notice that published on April 13 (30 ANR 48) is the second of the two required *Federal Register* Notices (the first one being the November 2017 notice). The renewal for FAA to extend the collection has not yet been granted. The decision is made by the Office of Management and Budget once it has reviewed the completed Information Collection Request submittal.”

FAA told ANR that it is seeking the data collection extension because the agency authority to collect data was set to expire. “The decision to extend [the data collection] is independent of the release of the survey findings,” FAA said, but did not say when the findings would be released.

OMB approval to extend the data collection in the annoyance survey will give the FAA the ability to contact the public to clarify responses, if needed.

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Litigation

GEORGETOWN PLAINTIFFS SEEK REHEARING OF RULING DISMISSING THEIR LAWSUIT

The Citizens Association of Georgetown, neighboring community groups in the historic district of Washington, DC, and Georgetown University are not giving up their legal battle with FAA over a new NextGen flight path out of Reagan National Airport that moved aircraft over them.

At issue in the case, *Citizens Association of Georgetown, et al. v. FAA* (No. 15-1285), is whether actual community involvement – not merely a legal notice of a study in a newspaper – is required before the FAA can move major flight paths as it implements NextGen airspace changes across the country.

On May 9, attorneys for the plaintiffs filed a petition with the U.S. Court of Appeals for the District of Columbia Circuit seeking a rehearing or rehearing *en banc* of a ruling by a three-judge panel of the Court in March dismissing their case on the grounds that it was filed beyond the 60-day window for challenging FAA final orders and there were no “reasonable grounds” for having done so (30 ANR 37).

The plaintiffs asserted that the rehearing is warranted because the ruling by the three-judge panel was based on a misreading of the facts in the record and directly
(Continued on p. 58)

Research

INCIDENCE OF ‘AFIB’ HEART ARRHYTHMIA INCREASES WITH LEVEL OF NOISE ANNOYANCE

Increasing levels of annoyance to aircraft noise and other noise sources is associated with a significant increase of the frequency of atrial fibrillation, the most common heart arrhythmia in the general population and one that can be triggered by stress and anger, German scientists in the Department of Cardiology at the Mainz University Medical Center in Germany reported recently in the *International Journal of Cardiology*.

Noise-induced annoyance is “dose-dependently” associated with atrial fibrillation and may represent an important cardiovascular risk factor, the study authors said.

The incidence of atrial fibrillation in subjects with extreme noise annoyance reactions (as self-rated on a five-point annoyance scale) increased to 23 percent, compared to only 15 percent in subjects with no annoyance reaction, the study found.

It is the first to examine the association between atrial fibrillation – which in some circumstances can lead to stroke – and noise from road traffic, aircraft, rail-

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Research ... The incidence of atrial fibrillation, the most common heart arrhythmia, increases as degree of annoyance to noise from aircraft and other sources increases, German study finds - p. 57

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Briefs ... FAA issues Final Environmental Assessment and FONSI/ROD for Cleveland/Detroit Metroplex project - p. 60

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conflicts with the Court's recent decision in *City of Phoenix v. Huerta* in three critical respects:

(1) In *City of Phoenix* and an earlier ruling in *City of Dania Beach v. FAA*, the D.C. Court of Appeals held that the "relevant final order" by FAA that moves a flight path over a previously unaffected community is the order published at the time the new route is "implemented" and when the adverse "impacts" on the community are felt.

In the Georgetown ruling, however, the panel concluded that a preliminary FONSI/ROD, "which had no impact whatsoever on the community," was the "relevant final order."

(2) In the *Phoenix* ruling, the Court held that FAA's failure to involve city leaders and officials in the airspace change was arbitrary and capricious and required vacature of the new air routes.

In the *Georgetown* ruling, however, the three-judge panel "adopted the FAA's unsupported argument that the only 'involvement' the FAA was required to undertake to engage D.C. government officials, was to place two legal notices in local newspapers.

(3) In *Phoenix*, the D.C. Court of Appeals held that the FAA's "serial promises" to City officials that it was open to "fixing" the noise problem, constituted "reasonable grounds" for filing the lawsuit late.

"Here," the Georgetown plaintiffs' attorneys argued, "the FAA excluded the D.C. Mayor and D.C. City Council from its notice mailing lists and failed to 'involve' them in its plan to transfer the vast majority of northern departures [out of Reagan National Airport] from Rosslyn, VA, to D.C. Instead, the FAA kept them in the dark for 18 months until that transfer was a *fait accompli*."

Question of 'Exceptional Importance'

"The question of whether actual community involvement, not merely a legal notice of a study in a newspaper is required, before the FAA may move a major flight-path, is of exceptional importance," the Georgetown plaintiffs asserted in their petition for rehearing.

"Failure to follow *Phoenix* and *Dania Beach* not only impacts these petitioners – but every community that may be adversely affected by the FAA's numerous disruptive flight path movements in its ongoing nationwide implementation of the FAA Modernization and Reform Act of 2012."

The petition for rehearing argues that the FAA publication of the new departure routes over Georgetown in 2015 was the relevant final order from which Petitioners did appeal within the proscribed time limit.

Furthermore, even if the relevant order was the FAA's 2013 Order concluding the FONSI/ROD study, Petitioners contend that they and their elected representatives had no knowledge of that study, that newspaper publication of legal notices should not discharge the FAA's obligations to involve the community in its rulemaking and, therefore, good cause existed for Petitioners not appealing until the flights were ac-

tually implemented and flown.

Petitioners hope that the panel that decided the case will review certain factual errors in its decision and proceed to review the merits of Petitioner's claims and failing that providing an opportunity for the entire Court to consider the case.

It is expected to take several weeks for the Appeals Court to respond to the petition for rehearing.

Urban Air Mobility

NASA BROADENS PARTNERSHIP WITH UBER ON UAM SYSTEMS

NASA said May 8 that it has signed a second Space Act agreement with Uber Technologies, Inc., to further explore concepts and technologies related to urban air mobility (UAM) to ensure a safe and efficient system for future air transportation in populated areas – and to ensure that the system has acceptable noise levels.

Under this agreement, Uber will share its plans for implementing an urban aviation rideshare network. NASA will use the latest in airspace management computer modeling and simulation to assess the impacts of small aircraft – from delivery drones to passenger aircraft with vertical take-off and landing capability – in crowded environments.

This is NASA's first such agreement specifically focused on modeling and simulation for UAM operations.

"NASA is excited to be partnering with Uber and others in the community to identify the key challenges facing the UAM market, and explore necessary research, development and testing requirements to address those challenges," said Jaiwon Shin, associate administrator for NASA's Aeronautics Research Mission Directorate. "Urban air mobility could revolutionize the way people and cargo move in our cities and fundamentally change our lifestyle much like smart phones have."

At its research facility at the Dallas Fort Worth (DFW) International Airport, NASA will use the data supplied by Uber to simulate a small passenger-carrying aircraft as it flies through DFW airspace during peak scheduled air traffic. Analysis of these simulations will identify safety issues as these new aircraft take to the air in an already crowded air traffic control system.

"The new Space Act agreement broadening Uber's partnership with NASA is exciting, because it allows us to combine Uber's massive-scale engineering expertise with NASA's decades of subject matter experience across multiple domains that are key to enabling urban air mobility, starting with airspace systems," said Jeff Holden, Uber's chief product officer.

As small aircraft enter the marketplace, NASA wants to ensure they do so safely, with acceptable levels of noise, and without burdening the current national air traffic control system. To this end, the agency is leveraging ongoing aeronautics research in areas including: Unmanned Aircraft System

(UAS) traffic management at low altitude; UAS integration in the National Airspace System; all-electric, general aviation class aircraft development; vertical take-off and landing aircraft; system-wide safety; and more.

These activities will generate the data necessary to support the creation of industry standards, Federal Aviation Administration rules and procedures, and other related regulations. NASA will make the research available to the broader UAM community.

UAS Integration Pilot Program

In related news, on May 9, Secretary of Transportation Elaine Chao announced that DOT has selected 10 state, local and tribal governments as participants in the Unmanned Aircraft Systems (UAS) Integration Pilot Program.

First announced last October, this White House initiative partners the FAA with local, state and tribal governments, which then partner with private sector participants to safely explore the further integration of drone operations.

“Data gathered from these pilot projects will form the basis of a new regulatory framework to safely integrate drones into our national airspace,” said Secretary Chao.

The 10 selectees are:

- Choctaw Nation of Oklahoma, Durant, OK;
- City of San Diego;
- Virginia Tech - Center for Innovative Technology, Herndon, VA;
- Kansas Department of Transportation;
- Lee County Mosquito Control District, Ft. Myers, FL
- Memphis-Shelby County Airport Authority;
- North Carolina Department of Transportation;
- North Dakota Department of Transportation;
- City of Reno, NV; and
- University of Alaska-Fairbanks.

Over the next two and a half years, the selectees will collect drone data involving night operations, flights over people and beyond the pilot’s line of sight, package delivery, detect-and-avoid technologies and the reliability and security of data links between pilot and aircraft.

The data collected from these operations, which will include noise data, will help the USDOT and FAA craft new enabling rules that allow more complex low-altitude operations, identify ways to balance local and national interests related to UAS integration, improve communications with local, state and tribal jurisdictions, address security and privacy risks, and accelerate the approval of operations that currently require special authorizations.

Urban Air Mobility

NASA discusses the concept of urban air mobility and how it is working to ensure it is safe and has acceptable noise levels in a recent news feature, “Taking Air Travel to the Streets, or Just Above Them,” which is at <https://www.nasa.gov/aero/taking-air-travel-to-the-streets-or-just-above-them>

Research, from p. 57

ways, industrial/construction and neighborhoods during the daytime at night while sleeping.

The study found that that aircraft noise accounted for the largest share of extreme noise annoyance: 84 percent during the day and 69 percent during sleep.

Aircraft noise annoyance affected 60 percent of the study population in the Mainz-Bingen region of Germany. “Thus, it clearly outperformed other noise sources such as road, rail or neighborhood noise,” a summary of the study noted.

Annoyance Triggers More AFib at Night

The study also found that, when comparing the influence of noise annoyance during daytime and during sleep on atrial fibrillation, there was a more frequent atrial fibrillation triggering effect of annoyance in response to noise during sleep.

“This might reflect an adverse effect of noise on sleep quality, which in turn leads to stronger annoyance reactions. Sleep disturbances *per se*, including short sleep and fragmentation of sleep are among the most prevalent reasons for noise complaints and are associated with activation of sympathetic nervous system, thus markedly increasing the risk of ischemic heart disease, stroke and arrhythmia,” the study authors said.

Their study on the relationship between atrial fibrillation and annoyance reactions was conducted within the framework of the Gutenberg Health Study, one of the largest studies in the world seeking knowledge about causes and risk factors of common diseases.

The study includes more than 15,000 men and women between the ages of 35 and 74 living in the City of Mainz and the district of Mainz-Bingen.

Of the study cohort of 15,010 people, a total of 14,639 participants answered questions about noise annoyance, of whom 18 percent (2,704 people) had a diagnosis of atrial fibrillation (2,297 by electrocardiogram (ECG) documentation, 200 by medical history, and 207 by both).

Noise is a major source of annoyance in western European countries due to growing urbanization and increasing demand for transportation and it leads to stress, a condition that has been shown to be associated with an increase in cardiovascular disease, the study authors explained in a news release.

“We have already been able to prove the connection between noise and vascular disease in several studies in healthy volunteers, patients with established coronary artery disease, and also in preclinical studies. To date, there has been no explicit study being published which addresses to what extent noise annoyance can cause cardiac arrhythmia,” said Dr. Thomas Münzel, Director of Cardiology at the Mainz University Medical Center Department of Cardiology and senior author of the study.

“The study shows for the first time that noise annoyance caused by various noise sources during the day and night is associated with an increased risk of atrial fibrillation,” added

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study leader Omar Hahad, research associate at the Department Cardiology, Cardiology I.

“Overall, we were able to demonstrate a stronger influence of annoyance caused by nocturnal noise on the heart rhythm.”

Strengths, Weaknesses of Study

Regarding the study weaknesses, the study leaders noted that, while noise annoyance was measured, noise levels from the various noise sources studied were not. And since this was a cross-sectional study, no statements can be made with respect to a causal relationship between annoyance from noise and atrial fibrillation.

But the study authors said the strengths of their study were the large sample size and wide range of age groups and the use of ECG to diagnosis atrial fibrillation in addition to a physician-diagnosed history.

“The relationship between noise annoyance and atrial fibrillation is an important finding that may also explain why noise can lead to more strokes. However, one must not forget that noise also leads to damage to health without the need for an anger reaction,” said Prof. Münzel.

The study also examined the impact of the night ban on operations at Frankfurt am Main Airport (11 p.m. to 5 a.m.) imposed in October 2011 on the aircraft noise annoyance reported by the study participants.

“Interestingly, there was a significant increase in aircraft noise after the introduction of the no-fly ban, both during the day and at night,” Münzel said.

“This could be due to the fact that, in spite of the ban on night flights, altogether the number of flight movements has not decreased and the flight movements have been concentrated more in the marginal hours of 10-11 p.m. and 5-6 a.m.”

The study authors recommended that the nighttime operational ban at Frankfurt Airport should be expanded from expanded from 11 pm to 5 am to 10 p.m. and 6 a.m.

The study is at: [https://www.internationaljournalofcardiology.com/article/S0167-5273\(17\)37174-7/fulltext](https://www.internationaljournalofcardiology.com/article/S0167-5273(17)37174-7/fulltext)

In Brief...

Cleveland/Detroit Metroplex Gets FONSI/ROD

Today, FAA announced in the *Federal Register* that it has issued a Final Environmental Assessment and Finding of No Significant Impact/Record of Decision for the Cleveland/Detroit Metroplex project.

AIRPORT NOISE REPORT

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SSTs

FAA TO ISSUE TWO PROPOSED RULEMAKINGS ON CIVIL SUPERSONIC AIRCRAFT NEXT YEAR

In 2019, the FAA expects to initiate two rulemaking activities on civil supersonic aircraft noise, FAA announced in a May 9 Fact Sheet on Supersonic Flight.

The first activity is a proposed rule for noise certification of supersonic aircraft and the second is a proposed rule to streamline and clarify the procedures to obtain special flight authorizations for conducting supersonic flight-testing in the United States.

Will the proposed rule on noise certification of supersonic aircraft simply define a process that must be followed to obtain noise certification or will it propose actual noise standards that must be met by civil supersonic aircraft? ANR asked the FAA.

“It is premature to speculate on the outcome of the rulemaking process, in terms of the Notice of Proposed Rulemaking (NPRM) scope and timing of FAA plans in relation to international activities under the International Civil Aviation Organization (ICAO),” FAA replied.

(Continued on p. 62)

SoCal Metroplex Project

DOJ REMINDS APPEALS COURT IT MUST DEFER TO FAA TECHNICAL DETERMINATIONS IN ROD

The U.S. Court of Appeals for the District of Columbia Circuit must defer to FAA’s technical determinations in its Record of Decision (ROD) approving the Southern California Metroplex Project, including FAA’s use of the controversial DNL noise metric to assess significant noise impact, the U.S. Department of Justice asserted in a May 15 brief to the Court.

The brief was filed to refute legal challenges to FAA’s Sept. 2, 2016, ROD and Finding of No Significant Impact (FONSI) approving extensive airspace changes made under the FAA’s SoCal Metroplex Project.

In their earlier brief to the Court, the remaining plaintiffs in the case who have not settled with FAA, asserted that the agency’s environmental assessment of the SoCal Metroplex Project “figuratively thumbed its nose at NEPA and its own regulatory requirements and thus abused its discretion” (30 ANR 37).

But DOJ pushed back aggressively on that argument in its reply brief.

“On the merits, Petitioners fail to identify any error in FAA’s comprehensive NEPA review,” DOJ told the Court.

(Continued on p. 63)

In This Issue...

SSTs ... FAA expects in 2019 to begin two rulemakings on civil supersonic aircraft noise. The first is a proposed rule for noise certification of civil supersonic aircraft, although it is unclear at this point if it will include noise standards. The second rulemaking will streamline and clarify procedures to obtain special flight authorizations for SST flight tests - p. 61

Litigation ... DOJ reminds a federal appeals court that it must defer to FAA technical determinations, including the use of DNL, in FAA’s ROD approving the SoCal Metroplex project. DOJ also asserts that FAA has no specific statutory duty to reduce aircraft noise when approving new NextGen air traffic procedures - p. 61

Heathrow ... Airport issues its latest Fly Quiet and Green Program rankings on environmental performance of top 50 busiest airlines; begins public consultation on its next five-year Noise Action Plan - p. 62

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The agency said in its Fact Sheet, “Since the FAA expects any new supersonic aircraft to operate internationally, we are collaborating with other national aviation authorities and working within the ICAO Committee on Aviation Environmental Protection (CAEP) to develop international noise and emissions standards appropriate for future supersonic aircraft and the engines that power them.”

In early April, NASA announced that it had awarded a \$247.5 million contract to Lockheed Martin to design, build, and test a low boom supersonic demonstrator aircraft that will be used to gather crucial community response data that ICAO will use to set a noise level for overland supersonic flight (30 ANR 41).

But that community response data will not be collected by NASA until 2022-2025 and ICAO noise standards for civil supersonic aircraft will presumably be issued at some point after that. Only then will ICAO member states adopt the ICAO noise standard as their own national standard.

In its Fact Sheet, FAA said that notices of the proposed rulemakings on the two rules on civil supersonic aircraft noise it will initiate next year will be published in the *Federal Register* for public review and comment.

Publication of the proposed rules will depend on the ongoing data and information gathering process currently being conducted, FAA explained.

The proposed rules are needed because subsonic noise certification regulations in Part 36 of Title 14 of the Code of Federal Regulations do not apply to supersonic aircraft.

FAA said that current rulemaking activity related to noise certification of supersonic aircraft “will determine the technological and economic basis that supports noise level requirements that are appropriate for supersonic aircraft.”

Overland Flight Ban Not Rescinded

The two proposed rules FAA expects to issue next year will not rescind the current prohibition on flights in excess of Mach 1 over land in the United States, which is imposed in Title 14, Part 91, Section 91.817 (Civil Aircraft Sonic Boom) of the Code of Federal Regulations, FAA noted in its Fact Sheet.

Appendix B to Part 91 defines a procedure for applying for FAA authorizations to conduct flights that exceed Mach 1.

However, an amendment added to the FAA reauthorization bill approved by the Senate Commerce Committee last June would effectively rescind the overland flight ban on SST aircraft imposed in Section 91.817 if FAA does not issue a proposed rulemaking allowing overland supersonic flights (29 ANR 91).

FAA would be required to issue a proposed rulemaking on overland supersonic aircraft flight within one year and a final rule six months later under the amendment to the FAA Reauthorization Act of 2017 (S. 1405), which was approved by the Senate Commerce Committee on June 29, 2017.

If the Secretary of Transportation fails to publish a final

rule on overland supersonic flight within 36 months of passage of S. 1405, then Section 91.817 of title 14, Code of Federal Regulations, which bars flights at supersonic speed over the United States, would no longer “have force or effect,” the amendment states.

Sens. Mike Lee (R-UT) and Cory Gardner (R-CO) proposed the amendment, which would add Section 5017 to the Senate’s FAA reauthorization bill, which is still pending.

The amendment stipulates that the proposed rulemaking on overland supersonic flight must specify a noise standard for sonic boom over the United States that is:

- Economically reasonable and technologically practicable;
- Informed by noise levels that are tolerated in the United States for non-aviation purposes; and
- Will foster employment in aircraft and aircraft engine manufacturing in the United States.

The amendment also would require FAA to specify a noise standard for landing and take-off of civil supersonic aircraft “that is no more stringent than large subsonic aircraft in use for transporting passengers in the United States on Jan. 1, 2017,” which means Stage 4 standards, which are not the most stringent.

The Senate Commerce Committee is in the process of deciding how to respond to the five-year FAA reauthorization bill the House passed on a vote of 393 to 13 on April 27. The Committee could adopt the House bill – the FAA Reauthorization Act of 2018 (H.R. 4) – or it could revive its FAA Reauthorization Act of 2017 (S. 1405), which includes the Lee-Gardner amendment on supersonic aircraft.

One of the beneficiaries of that amendment would be Boom Aerospace, which is based at Centennial Airport in Denver, CO. Boom plans to fly its XB-1 “Baby Boom” two-seat demonstrator aircraft for the first time next year from the Mojave Air & Space Port in Southern California with supersonic flight tests near Edwards Air Force Base.

The test flights are designed to prove that the key technologies that will be used in Boom’s 55-seat commercial supersonic aircraft are safe at speeds of Mach 2.2.

Even for a flight in a supersonic corridor, civil supersonic aircraft need permission from FAA under Appendix B of Part 91, a spokesman for Boom told ANR. He said Boom has received that permission.

Heathrow

FLY QUIET, GREEN RANKINGS OUT; NEW NOISE ACTION PLAN BEGINS

On May 15, London Heathrow Airport issued its latest Fly Quiet and Green Program rankings as it released details of a public consultation on its new Noise Action Plan.

Scandinavian Airlines and LOT Polish Airlines grabbed the top rankings in the latest Fly Quiet and Green table, which ranks the performance of the top 50 busiest airlines at

Heathrow on seven noise and emission metrics from January to March 2018. By publishing the table each quarter, Heathrow said it aims to recognize good performance, provide airlines with regular feedback, and identify specific areas to be targeted for improvement. Heathrow engages with the airlines that have the poorest rankings on the Fly Quiet and Green table to help them improve their rating.

“LOT Polish Airlines moved from last place in the first has proved to be the success story of Heathrow’s Fly Quiet and Green Program, having completely transformed its noise and emissions performance – from last place in the first league rankings in 2013 to second place in the latest results.

“LOT Polish Airlines began operating new Boeing 737 MAX aircraft on its Heathrow services this year, which has led to the greatest improvement in its ranking. The engines on the Boeing 737 MAX are quieter and more efficient than its predecessors, and have distinctive v-shaped winglets that allow the wings to encounter less drag, use less fuel, and produce lower carbon emissions,” Heathrow explained.

Scandinavian Airlines has worked with Heathrow to improve its use of ‘Continuous Descent Approaches’ into Heathrow. This flight procedure reduces noise as it requires less engine thrust and keeps the aircraft higher for longer. The airline also worked to improve its ability to keep flights within the departure corridors of “noise preferential routes” designated by the Government – referred to in the league table as “track keeping.”

Noise Action Plan

As part of Heathrow’s commitment to be a global leader in reducing the impact of aircraft noise on local communities, the airport produces a Noise Action Plan every five years setting tough new objectives to further reduce aircraft noise.

The Fly Quiet and Clean league table itself was created in 2013 as one of the actions from Heathrow’s last Noise Action Plan. Heathrow is currently developing its next five-year Noise Action Plan and will hold a series of public consultation events on the 2nd, 6th and 23rd of June, giving the public a chance to shape how the airport manages aircraft noise in the future.

“As the first initiative of its kind in Europe, it was hard to estimate the impact the ‘Fly Quiet and Green’ league table would have when it was first launched, said Matt Gorman, Heathrow’s Director of Sustainability.

“LOT Polish Airline’s story, however, shows the results that can be achieved by working productively with our airline partners to encourage them to use quieter technology and operating procedures for the benefit of our local neighbors.

“We know there is always more we can do to reduce our noise impacts, and we have set some ambitious targets in our new Noise Action Plan. We encourage all of our local neighbors to give us their feedback on this plan, and help us shape the way we manage noise in the future.”

For additional information on Heathrow’s Noise Action Plan consultation, go to www.heathrowconsultation.com/NAP

SoCal, from p. 61

“FAA’s choice to use a particular computerized noise model (the Noise Screening Tool of the Noise Integrated Routing System) was explained in the administrative record and fully consistent with the agency’s internal guidance.

“Nevertheless, FAA subsequently provided Petitioners with the relief they now seek from this Court, when FAA re-analyzed the Project using a newer computer model (the Aviation Environmental Design Tool). The results were the same: no significant noise impacts would occur anywhere in the study area.

“FAA’s use of its “DNL” metric to quantify noise impacts and determine their significance was reasonable, as federal regulations require noise to be reported using this metric and establish thresholds based on this metric. Petitioners would prefer use of a California-specific noise metric (“CNEL”), but use of that metric is optional for FAA in fulfilling its NEPA obligations, and FAA reasonably opted not to apply it here.

“The environmental assessment overlooked no foreseeable impacts,” DOJ declared, nor did the EA violate the National Historic Preservation Act or the Clean Air Act, as alleged by the petitioners.

“... To the extent that Petitioners challenge the substance of FAA’s technical conclusions, this Court must defer to FAA’s factual determinations so long as they are supported by substantial evidence in the administrative record,” DOJ wrote.

It stressed that the Court “has specifically acknowledged” that FAA’s use of the DNL metric, “is the appropriate methodology for evaluating the impacts from aircraft noise.”

“This deference to the informed expert decision-making of a federal agency on technical matters is well-settled and uncontroversial,” DOJ reminded the Court.

No Duty to Reduce Aircraft Noise

DOJ also asserted that FAA has no specific statutory duty to reduce aircraft noise when approving new air traffic procedures.

“Petitioners discuss at length FAA’s obligation to consider the ‘public interest’. Although the implications of this discussion are unclear, Petitioners appear to be suggesting that FAA has an ongoing statutory obligation to establish air-traffic procedures that reduce aircraft noise and emissions of air pollutants.

“No such obligation exists,” DOJ declared.

“FAA is required by NEPA to evaluate and consider the potential impacts of noise and emissions resulting from its proposed actions, and it did so extensively in this case. But no statute requires FAA to prioritize reduction of environmental impacts in its design of the national airspace.

“To the contrary, numerous statutory provisions delegating authority to FAA make clear that the agency’s primary concerns must be safety and efficiency.”

Neither Congress nor this Court has ever imposed noise and emissions-reduction requirements on FAA’s design of

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new air-traffic procedures, DOJ wrote.

The agency noted that the FAA authorization bill enacted in 2003, commonly referred to as “Vision 100,” provides a list of “goals” for implementation of NextGen. The last goal directs FAA to “take into consideration, to the greatest extent practicable, design of airport approach and departure flight paths to reduce exposure of noise and emissions pollution on affected residents.”

But the statute makes clear that competing concerns about noise and emissions pollution should influence design of NextGen procedures “only when it is practical to do so while still achieving mandatory NextGen goals to improve safety, security, efficiency, quality, and affordability of the national airspace.

“Vision 100 does not require that every new next-generation air-traffic procedure reduce noise and air pollution,” DOJ told the Court.

DOJ Says Two Petitioners Should Be Dismissed

Of the eight original petitions for review, four (filed by the City of Newport Beach, the City of Laguna Beach, Benedict Hills Estates Association and Benedict Hills Homeowners Association) were voluntarily dismissed because the plaintiffs settled with FAA (30 ANR 1, 9, 37).

There are four remaining petitioners: Culver City, Santa Monica Civic Association, and two individuals: Donald Vaughn and Stephen Murray.

DOJ argued in its brief that the petitions filed by Culver City and Santa Monica Civic Association should be dismissed.

“Culver City appears solely in an attempt to redress the injuries of its citizens, but well-established law forecloses that attempt,” DOJ argued, explaining that a city government may only establish standing to sue the federal government “when harm to the city itself has been alleged.”

The injuries Culver City alleges “are either injuries to its citizens, or not injuries at all,” DOJ contended.

“Santa Monica Canyon Civic Association filed no comments and did not participate during the public-comment process, and it therefore fails to satisfy the statutory prerequisite of 49 U.S.C. § 46110(d) for proceeding before this Court on a petition for review,” DOJ told the Court.

No date for oral argument in the case has been set yet.

The case is *Donald Vaughn, et al v. FAA* (No. 16-1377).

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