

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

**Agenda for Tuesday, February 14, 2012**

Call to Order 2:00 pm Harvey Government Center

Roll Call

- A. Review and Approval of Meeting Minutes
  - 1. For December 6<sup>th</sup>, 2011
  
- B. Discussion of Part 150 Study Update - NOTE: Data provided is Sample; Will be updated and validated when full year is available.
  - 1. Operations-Table to be provided at meeting.
  - 2. Runway Utilization/Day-Night Split
  - 3. Consulted Parties
  
- C. Other Reports:
  - 1. Noise Hotline and Contact Log
  - 2. Airport Noise Report
  
- D. Any Other Discussion
  
- E. Next meeting: April 3, 2012

2012 Schedule of Meetings

February 14	April 3	June 5
August 7	October 2	December 4

***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 December 6<sup>th</sup>, 2011 Meeting Minutes**

**Meeting called to order by Commissioner Kim Wigington at 2:05 PM.**

### **ROLL CALL:**

#### Committee Members in Attendance:

Commissioner Kim Wigington  
Marvin Hunt  
Dan McMahon  
Kay Miller, Here.  
Marlene Durazo

#### Staff and Guests in Attendance:

Peter Horton, KWIA  
Deborah Lagos, URS Corp.  
Dan Botto, URS Corp.  
Don Riggs, Resident  
R. L. Blazevic, Resident

**Quorum was present**

### **Review and Approval of Meeting Minutes for the October 4<sup>th</sup>, 2011 Ad Hoc Committee Meeting**

Deborah Lagos asked if everyone had received the meeting minutes, and if there were any additions or corrections? The following items for revision were received. on Page 6 in the third paragraph "Deborah responded the ultimate outcome in the set of recommended measures than the FAA goes through", there should be a "that" instead of a "than."

Then on page 9, "rubble" should be "rubber" on the third paragraph - "...close runway for rubber...". Page 9 in that same paragraph a comment was made that "if the airport had 500 more feet of runway it would be like....", what?. One suggestion was to add that "it wouldn't be like it is now." Commissioner Wigington asked if that what we want to put down. Dan Botto said that he would go back and listen to that part of the recording and revise the minutes. . There was a brief discussion about what might have been said. Marvin, thought that he made the

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statement that having 500 more feet more of runway length the airport wouldn't be in the situation we currently have, and maybe they (the aircraft that over ran the runway) would have been able to stop. Peter asked if 500 feet would really make that much of a difference. Marvin answered that 500 feet would make a big difference on US Airways getting more passengers out of KWIA. Peter said that he wasn't aware it was just a matter of 500 feet. Marvin went on to explain how the additional runway length would allow the use of a different aircraft (that would accommodate more passengers). Commissioner Wigington asked if there was anything else. No additional needs for corrections were brought up. A motion for approval of the minutes with the discussed corrections was put forward by Marlene, and Kay seconded the motion. There was no opposition and the motion carried.

### **Discussion of Noise Monitoring**

Dan gave a brief recap of the Landrum & Brown (L & B) Noise Monitoring Report. The suggestions by both he and Deborah were transmitted to L & B. The report that the committee was given for this meeting is the final report and includes all of the suggested revisions. Dan reminded the committee that additional noise monitoring would be conducted at four locations as part of the Part 150 study. Deborah stated that the four locations have not been identified at this point, and that was part of what she wanted to discuss this with the committee, in order to get their input. Marlene had a question concerning how often the noise monitors recorded events. Deborah confirmed that the noise monitor samples every second, and record the event if it exceeds the 63 dBA threshold. Because of the way the report text reads, Marlene was concerned that the monitors were only registering departures. Deborah clarified that this was not the case, as all events that exceed the threshold are recorded. She added that the confusing text was really about trying to describe the reason for the bulges on one end of the noise contours as the result of the beginning of the take-off roll.

Peter mentioned that a National Guard Unit, C-130 would be coming in Sunday at 3:00 remain overnight and take-off Monday morning. He added that he didn't know whether they would be using Runway 27.

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Commissioner Wigington asked if the Canadians were coming in? Peter indicated that he didn't know, but that this group isn't Canadian. He said that this group wanted to go to Boca Chica but they said Boca Chica had a full ramp. Commissioner Wigington stated that she knew there had been a lot of jet flights [in and out of Boca Chica]. A question was asked about confirming that Boca Chica NAS was used for winter training exercises and how that creates a "natural overflow" [of aircraft]. Peter confirmed this, and added that the airport currently has a Shorts 360 which is being used to do jumps [parachuting] over Fleming Key. Peter added that the Shorts 360 is a twin turbo prop and is much smaller than a C130 but the rear does come down and then they jump right out of the rear of the aircraft. He also added that the aircraft is an old design, and was either a Scottish or Irish design. Peter mentioned that it was made originally to load and unload sheep.

### **Part 150 Kick-off**

Commissioner Wigington stated and Dan confirmed that today was officially the kickoff of the Part 150 study. Peter said (jokingly) that he was gratified to see the huge public outpouring. Commissioner Wigington added that she believes it speaks to the fact that people are not that concerned about it.

Dan said that we have produced some boards to discuss things if you want to get close-up looks. He added that everyone had a packet of the boards in front of them. Dan went through the list of boards, briefly describing each. The boards covered subjects that include: the process of the 150 study, two boards that show how the noise is measured, the noise compatibility table that the FAA requires the use of on the study, the existing land use which we will update throughout the study, the current approved noise contours (the 2013 future contour is our current approved contour), the homes that have currently been sound insulated under the previous part 150, a table of current FAA approved operations, and a graphical comparison of the sound levels (noise footprints) produced by different aircraft. Dan mentioned that Peter and he had discussed the FAA's numbers not being fully accurate because they don't account for the hours the tower is open. Dan continued that as the [Part 150] process goes forward, we'll present the FAA with a different number and get their approval to use those numbers instead of what they have here. He added that those numbers from the FAA will also change in two months, as they'll have their new TAF available. Dan reference one of the

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boards saying that the actual aircraft that are flying in and out of Key West are the ones on the right of that table and the ones that we use in INM to represent those aircraft as approved by the FAA. Dan then referred to the board that compared noise footprints in order to revisit the last question discussed on the Noise Monitoring Report.

Deborah said that she thought it was interesting that some planes are louder on take-off than others, but then sometimes other planes are louder on landing. So it's not like there's any one that's ideal. Marlene observed that the lay person wouldn't really know which aircraft [in the table] are U.S. Air or Delta, since that is how they identify which plane is flying over. Dan said that in the [INM aircraft] substitution list we've highlighted the aircraft that are flying in commercially and those are all on this list.

Dan stated that he picked the 10 most active aircraft at the airport for the chart. Dan explained that the table was made using the 2011 fleet mix is based on a sample of radar data we got earlier in the year. So we will update all of this and have a full year's radar data to update this fleet mix. Peter observed that there were 13 selected aircraft, instead of the 10 that Dan stated. Peter asked if we should make some kind of designation as to commercial and business - As far as who's flying what. A discussion of which airlines flew which plane commenced. Deborah said that they'll add in the airline and carriers. Dan stated that when we do this for the document, we can do multiple tables, multiple boards, and that he limited this table knowing we're going to change it when we get the full year radar data.

Commissioner Wigington asked if that was the end of our kick-off. Deborah said that it was unless anyone has any questions about the process. No one had a question, but Marlene observed that they could see the process from the flowchart. Dan observed that we always expect these [studies] to take 2 years and the FAA always decides it's going to take 3. Deborah added that it depends on the FAA. Also, it often times depends on the public and how involved the public gets and how much controversy is generated. If we have to investigate a lot of different things multiple times it takes longer. Otherwise it doesn't take that long.

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Don Riggs asked if the purpose or purposes for collecting all this data was to pursue grant funding or noise mitigation. Deborah answered that the reasons for the study are that it's been a long time since the last study, and the FAA requires proof of continuing noise issues in order to fund further noise mitigation. Don then asked if the goal was restricted to mitigating against the noise as opposed to going after the source. Deborah explained that part of what we look at is the possibility of reducing the noise through operational changes. That's the operational noise abatement alternative. Deborah added that over the life of this committee we've investigated a lot of different things, some have been helpful and others haven't panned out. But we hope we can get some input from folks for new ideas of things we didn't look at yet or that we need to re-evaluate because things have changed. Once we've investigated all the possible ways that the noise can be reduced through operational changes, then whatever we're left with that it's where we apply the land use mitigation. Don asked if the operational changes get cooperation from airlines. Deborah replied that the airport cooperates fully, and so do the airlines, for the most part. Deborah continued that the airlines are sometimes a little resistant if it affects their bottom line. Deborah offered as an example that if you would suggested that they take a flight path that caused them to have to fly out of their way, you might get some pushback because they having to burn more fuel, and in that case, you're going to get a little less cooperation.

Peter explained that since 1990 with the passage of the Airport Noise & Capacity Act 1990 (ANCA) Congress took away the usual tools an airports could use like banning louder aircraft, limiting the hours of operations, especially say from midnight to six in the morning. Peter went on that ANCA took away the local communities authority over what could come into their airport and what times, in exchange for that, it allows the Part 150 process and, if it meets the intent of the legislation, the federal government will finance your noise compatibility program. He continued that the most popular part of that has been the Noise Insulation Program (NIP). Peter added that Don was correct that it's a mitigation program for noise. Peter concluded that we don't have the power to stop the noise. We can only suggest things like alternate flight paths, but for the last 21 years we have not been able to compel them to do anything.

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R. L. Blazevic asked if anybody has thought about using dense foliage to reduce some of the noise. Peter answered that they had in the year 2000. He said that they did a complete study on it, which was financed by the FAA. He also said that during the same period, noise walls were installed in Miami, with the result of noise reductions for some at the expense of others (due to sound reflected by the wall). Peter continued that we planted a vegetative buffer between Airport Blvd and Government Road. Peter added that everything is open and on the table, and we can look at that again. We can look at another area if we want to. There's nothing that's sacred. That's the whole idea of this process.

Mr. Blazevic observed that people like that and vegetation might reduce the noise. Peter said that people don't want to look at the runway, so any tree is better than no tree. It covers up the runway, and if you were to remove that buffer between Government Road and Airport Blvd., as soon as they could see the planes landing and taking off they would swear it just jumped up 10 decibels. Although a buffer like that only has a 1 or 2 decibel impact on noise. Peter agreed that vegetation is a great thing and it can really go a long way, at least psychologically, if not actually buffering the noise.

Mr. Blazevic said that he thinks that in the long run engine manufacturers will design quieter engines because that's the one thing that's selling. Deborah observed that the research [on quieter engines] is ongoing. They're constantly looking at ways to reduce the noise at the source. She continued that over the years they have reduced the noise level of the engines dramatically. She added that she was sure that will continue in the future, but sometimes it takes a while for that to get fully implemented because the airlines already have aircraft and they're not going to throw those away and buy new ones.

### **Hotline & Contact Log**

Dan reported that the hotline had no calls over the last few months. He continued that he did give everyone a handout just to show that the hotline is still working. He explained that there were 6 calls on Thanksgiving Day so it is still operating. He speculated that on that day, everybody was home. Dan added that those calls will be listed in the next meeting's report. Dan went on to report that there were no contact log calls either. Deborah amended that she had one that I didn't log about someone calling about the eligibility for noise insulation. She observed that

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she gets a fair number of calls about that, but they are in areas that are generally outside [the mitigation area]. Peter started a discussion about one of the flights on the log Dan provided for Thanksgiving Day that occurred at 1:00 am. He said that unless it was a medical related flight, there is no reason for a jet to take off at that hour. Peter added that it might be something that could be looked at as part of the Part 150. Marvin asked if the airport can restrict people from taking off. Peter reiterated that the airport can only have a voluntary curfew; FAA will not allow more than that. The discussion continued with talk about finding out who the person was, speculation about the origin and purpose of the flight, and possible solutions to the issue.

### **Airport Noise Report**

Dan reported that a few of the articles in the noise report look interesting. First, we usually talk about the fact that nobody's really happy with DNL as a measure of annoyance. On page 30 there's an article talking about a model combining loudness, roughness and tonality as a better predictor for annoyance. Dan added that they're in the early stages with this. He said that in the 4<sup>th</sup> paragraph the first sentence says their ultimate aim is to construct models to predict annoyance that would result from future airport development or air-traffic patterns. Dan said that this is what we've talked before as the constant ongoing research trying to find a better method other than DNL to predict noise and determine the annoyance levels.

Second, on Dan pointed to page 45, 48, and 49 as showing the money that Key West has received for noise mitigation projects over the years. Dan refined the location of the article as the middle of the page of 45, and bottom of 48 and top of 49. Deborah observed that this is all PFC, and that is the amount the airport has spent of its own money.

Third, Dan reported that the next item of interest starts on page 62 and including the whole noise report. Dan said that he would let Deborah tell the committee about this one. Deborah said that all there is currently a controversy going on that has the potential to seriously impact the ability of airports to do sound insulation programs in the manner in which they have been done for the past 30 years. She continued that she happen to be on a team where firms are working on updating the

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guidelines for sound insulation for airports and this issue came up in the midst of their developing the guidelines and it's put the group into a bit of tail spin in that the FAA suddenly said what we thought was happening isn't what was really happening and we want to tighten up, clarify. The FAA claims that they we're not making a policy change but merely clarifying the policy that's been in place all along. Deborah said that everyone in the sound insulation community is in an uproar because as the headline says it could stop programs nationwide if they chose to implement it in a very strict manner. Basically what they're saying is that the interior noise level of a home has to exceed 45 DNL prior to the insulation in order to qualify. Although that by itself sounds simple enough, but then you get into the part that's really complicated about how you determine that. She continued that there are many questions that need to be answered like: what is the testing methodology and what rooms do you test, how many rooms do you have to test, do you have to test every single house, and can you test if there is a subdivision of similar houses that were built by the same builder can you test a sampling of them rather than every single one. Also, in neighborhoods where houses are all individual and different like here [in Key West], the chances would be you would have to test every single house. Moreover, there's a whole other issue about houses that don't have air conditioning. You keep the window open for the purpose of ventilation and the test requires you to close the window to perform the test and then the house meets 45 DNL with the windows closed. Since you can't keep the windows closed because you don't have any other ventilation system, would they allow insulation at a minimum or air conditioning or some other ventilation system?

Deborah clarified that it really is still being bounced around in Washington, and they're supposedly writing a program guidance letter to address it. She added that we don't know yet how much detail they're going to include. They're really shying away from the testing methodology which is really the critical component of this because whether a house has an interior level of 45 DNL before the modification is directly tied to the testing and how the testing is done and whether it's an average of the level in all the rooms that were tested or does every single room have to exceed that level. Deborah added that these are all questions that are still being resolved.

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It's possibly every single room will have to qualify. Deborah continued that she pulled all the [NIP testing] reports from pages 3 - 7 and used these particular pages because all those tests were done by the same company. She found that 51% of the rooms tested were above 45 DNL. She added that that's with some houses having two rooms tested, others having 3 rooms tested. She said that in some houses all the rooms were above, and other houses all the rooms were below. It does have a potential to impact the programs depending on how the FAA decides how we have to apply this.

A discussion ensued about how this would compromise neighborhood continuity, and create a situation where one house gets the mitigation measures while their neighbors don't.

A question was asked about what prompted this from the FAA. Deborah said that she thinks they are claiming it's not about money, but we all know that it is. She continued that there were some very expensive custom built homes in a particular location that they felt, were constructed in such a way that they already met an interior level of 45 or below and they were questioning why those were being insulated. Deborah continued that that sparked the whole thing. She added that right now we're just waiting to see what they come out with because all of the industry groups have weighed in on this and given input and tried to convince them of the political nightmare that they're going to. Peter observed that this is the same FAA that didn't want to drive down Linden Avenue in airport cars because they thought someone would stop them and want to talk to the FAA and they didn't want to talk to the people on the avenue because they said they weren't going to get soundproofed. Peter added that they leave it to us [the airport], and the people are going to complain and they going to say call the airport. Deborah concluded by saying that we'll see what happens, but it does have some very serious negative aspects to it.

### **Other**

Commissioner Wigington introduced Don Riggs. She said that Don attended the NOISE Conference in Phoenix, AZ and we have that in our noise report. She asked Don that if he thought anything was of any relevance or would interest the committee they would appreciate him sharing it.

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Don said the organization is comprised of counties, municipalities and elected officials of those places and have been active for about 40 years. They were talking about some things you were just talking about. He continued that a woman, who was an architect and engineer, was at the meeting and she had a pretty good handle on this topic. They also said that mitigation was a stop-gap and you have to go after the source. They were very excited about a study that's going to be completed in April that has been under the radar, designed by Harvard and implemented by MIT, to study the effects of airport noise on people. They're very excited about this. Nobody has done it in this country - they've done it in Europe. They're going to utilize Medicare records and taking a very close look at it. They anticipate the industry will criticize the study. They're excited because it is the first step and getting some facts and figures on the impact of noise on people who live in the vicinity of airports. And they especially excited because it's Harvard and MIT working together. So that's coming in April and I think that may be worthwhile and could prove to be a tool. Don noted that they want to talk to the FAA, and that this is a pretty aggressive group. Don stated that they've all been through "wars" of one kind or another that are involved with this [topic].

Peter observed that that's the group that started an initiative and I hope that they succeeded with it to phase out the Stage 1 and 2 business jets. How are they coming along on that initiative? Don said that he didn't know that answer as they focused their talks on the health study, measurements, and also what's going on in Europe. Don continued that in Europe citizens can go in court and claim a nuisance and start the process of stopping the nuisance one way or another. They've done some interesting studies in Europe. One of the planners from the city of Tempe [Arizona] talked about the relationship between noise and pollution and in Europe apparently they believe that pollution follows the noise. If they can't go after the noise, they go after the pollution. This is an interesting approach to making a deal with the polluters. So there are a lot of different things going on. Don concluded that he likes the approach of pollution following noise as a way to halt it. A brief discussion on particulate pollution and the positive consequence of expensive fuel spurring more efficient use followed.

Commissioner Wigington asked if the committee could approve the schedule before Kay departed. She asked if there were any corrections to the schedule. No

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corrections were brought up. Commissioner Wigington asked for a motion. Kay made the motion, and Dan seconded the motion. She asked if anyone opposed. Commissioner Wigington announced that the motion passed.

Commissioner Wigington stated that the next meeting would be on February 7 [2012], then April 3 [2012], June 5 [2012], August 7 [2012], October 2 [2012] and December 4<sup>th</sup> [2012]. Peter stated that he may not be at the meeting in February.

Meeting adjourned at 3:03 PM

**Key West International Airport**  
**Part 150 Study Update**  
**Arrival/Departure Runway Utilization**

Runway	Arrival		Departure	
	Ops	Percent	Ops	Percent
9	7749	88%	7622	88%
27	1040	12%	1017	12%
Total	8789	100%	8639	100%

Source: FAA ASDI Data, Jan 2012.

**Key West International Airport**  
**Part 150 Study Update**  
**Arrival/Departure Day Night Split**

Arrivals					
	Operations			Percentage	
Aircraft Category	Day	Night	Total	Day	Night
Jet	2,190	31	2,221	98.6%	1.4%
Turboprop	3,264	17	3,281	99.5%	0.5%
Multi-Engine Piston	2,039	27	2,066	98.7%	1.3%
Single Engine Piston	1,010	12	1,022	98.8%	1.2%
<b>TOTAL</b>	8,503	87	8,590	99.0%	1.0%
Departures					
	Operations			Percentage	
Aircraft Category	Day	Night	Total	Day	Night
Jet	2,209	56	2,265	97.5%	2.5%
Turboprop	3,047	217	3,264	93.4%	6.6%
Multi-Engine Piston	1,832	64	1,896	96.6%	3.4%
Single Engine Piston	1,059	16	1,075	98.5%	1.5%
<b>TOTAL</b>	8,147	353	8,500	95.8%	4.2%

Source: FAA ASDI Data, Jan 2012.

The Parties Consulted by the Airport Operator:

**FAA Officials**

Dean Stringer, Manager - Federal Aviation Administration

Dana Perkins - Environmental Program Specialist - Federal Aviation Administration

FAA Key West Work Station - Tom Frost

Rich Peiffer, Tower Chief - FAA Air Traffic Control Tower

**State Officials**

Sergey Kireyev, Manager - Airspace and Land Use - FDOT Aviation Office

Andy Keith - Aviation Planning - FDOT Aviation Office

Kenneth Robertson - Contracts Administrator, District VI - FDOT

Lauren P. Milligan - Florida State Clearinghouse - Office of Intergovernmental Programs  
Florida Department of Environmental Protection

Frederick Gaske - SHPO & Division Director - Division of Historical Resources  
Department of State

**Public and Planning Agencies having jurisdiction within the DNL 65 dB**

Jim Scholl, City Manager - City of Key West

Don Craig, Planning Director - City of Key West Planning Department

Roman Gastesi, Jr. - Monroe County Administrator

Christine Hurley, Division Director - Monroe County Growth Management Division

James F. Murley, Executive Director - South Florida Regional Planning Council

Claudia Pennington, Executive Director - Key West Art and Historical Society

**Other Federal Officials that have local responsibility for the area within the DNL 65 dB depicted on the maps**

U.S. Navy

Captain Patrick A. Lefere, U.S.N. - Commanding Officer - NAS Key West

Matt Strahan

National Oceanic and Atmospheric Administration, NOAA

U.S. Government: Sector Field Office

## **Regular Aeronautical Users of the Airport**

Island City Flying Service  
Peter Sellers

US Airways, Inc.  
Marvin Hunt, Manager

American (Eagle) Airlines  
Stephen Manuguerra, Manager

Continental-Gulfstream  
Michaela Allen, Station Manager

Delta  
Doug Plummer, Manager

Air Key West  
Robert Valle, Director of Operations

Key West Seaplane Tours  
Julie Ann Floyd

Island Aeroplane Tours (M&F Flying, Inc.)  
Fred Cabanas

Mountain Air Cargo

Cape Air  
Brad Desai, Station Manager

Federal Express  
Steve Saunders, Operations Manager

## Key West International Airport Noise Hotline Log

Date of call	Time of call	Caller	Contact information	Date rec'd	Message
11/24/2011	8:14 AM	Brenda Holizako	KWBTS	12/3/2011	I don't know the type of aircraft. I don't see it, I'm sitting in my living room. I hear this jet aircraft noise. I think this is what happens when they take off. We hear this all the time. We found out that we're supposed to call and let you know when we hear this. We hear this all the time from our living room. Not all of the aircraft make this kind of noise only certain ones, these huge ones. I guess the jets when they take off.
11/24/2011	11:45 AM	Richard Ballazado	KWBTS	12/3/2011	Just a minute or so ago a commercial airliner landed. Jet engines, white plane, blue tail. You could hear the reverse thrust when they touched down. Its loud.
11/24/2011	11:51 AM	Richard Ballazado	KWBTS	12/3/2011	We just had an aircraft, a commercial aircraft land, a twin engine. Quite a bit of noise including the reverse thrust.
11/24/2011	11:52 AM	Richard Ballazado	KWBTS	12/3/2011	Twin engine turbo prop aircraft just landed. Quite a bit of noise. The turbo prop coming by was white in color. This is the third one in about 3 minutes.
11/24/2011	12:19 PM	Richard Ballazado	KWBTS	12/3/2011	Just had a takeoff of a commercial jet liner. All white, twin engine jet.
11/24/2011	6:16 PM	Richard Ballazado	KWBTS	12/3/2011	We just had a landing of an American Airlines turbo prop. Quite a bit of noise off the turbo prop.
12/2/2011	1:01 AM	Jamie Blache	KWBTS, 586-219-4982	12/3/2011	I normally don't call about noise complaints but a jet plane just took off and its almost 1 am, and it seems excessively late. I don't know what color the plane is since it's the middle of the night but I can tell you it was a jet plane and not a prop plane. Other than that I really don't have any information about it but it does seem very very late for a plane to be taking off.
12/14/2011	7:39 AM			12/22/2011	No message left.
12/18/2011	8:12 AM	Jeremy Hall	KWBTS	12/22/2011	The jet just departed the west end of the runway extremely noisy rattling the windows and very smelly as well.
12/18/2011	8:41 PM	Jeremy Hall	KWBTS	12/22/2011	We just had a jet leave and it had to be the noisiest I've ever heard, horrendously noisy and for a long time.
12/26/2011	5:05 PM	Joan Rols	305-294-4942	12/28/2011	Theres some big jet airline out there. It has been warming up and warming up on the runway for at least 15 minutes and it wont take off and it keeps making more and more and more noise. Shut those damn things up.
12/28/2011	11:39 AM	Jeremy Hall	KWBTS, 305-433-2077	12/28/2011	The biplane that takes rides down the coastline, I don't think it has to fly really low level directly over KWBTS. There are mangroves to the north and south and good airmanship alone, surely, should say you shouldn't fly low over inhabited areas. There's no reason why it shouldn't approach the runway from either a tighter turn to the east of the complex or a more normal approach and pattern to the west of the complex when landing on 09.

## Key West International Airport Noise Hotline Log

Date of call	Time of call	Caller	Contact information	Date rec'd	Message
12/30/2011	5:52 PM	Polizzotto	KWBTS, 540-270-7481	1/6/2012	We were just buzzed very close over our buildings and as far as I'm concerned, that's unacceptable. It's a bi-plane. I couldn't get a tail number because it passed over way to quickly. This has happened a number of times now and I think these planes are flying dangerously close to the buildings here.
1/13/2012	3:33 PM	Richard Pollard	KWBTS	1/25/2012	I'm not calling about a noise complaint. I'm calling about the dangerous flying of this guy who is in this yellow bi-plane who's doing tricks over our head and flying at enormous speeds and very recklessly overhead and I don't want him coming down on my roof. So there's got to be some way you guys got to start roping this guy in because he is out of control.
1/24/2012	6:23 PM	Richard Pollard	KWBTS	1/25/2012	Well you don't really seem to be concerned about this fool that's flying over Key West doing his dive bomb routines with stunt smoke coming out of it and causing an extremely excessive amount of noise and scaring the shit out of everybody. So you better stop or I'm going before the city council and I'm going to see that you're stopped. This has been going on far too long and just wait if you think that I'm not going to take action.

**Key West International Airport  
Contact Log**

Date of call	Caller	Contact information	Subject	Response	Date
1/13/2012	Richard Pollard	KWBTS	He was calling about the dangerous and reckless flying of a yellow bi-plane.		
1/24/2012	Richard Pollard	KWBTS	He was calling again about the dangerous and reckless flying of a yellow bi-plane. He was upset because nothing has been done to stop this plane.		

# Airport Noise Report



A weekly update on litigation, regulations, and technological developments

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November 25, 2011

## AIP Noise Grants

### NOISE GRANTS TOTALING \$139.1 MILLION AWARDED TO 37 AIRPORTS IN FISCAL 2011

In fiscal 2011, some 37 airports received a total of \$139.1 million in federal Airport Improvement Program (AIP) grants to conduct noise compatibility planning studies and to implement noise mitigation projects, according to data provided by the Federal Aviation Administration.

That funding level is \$67.3 million less than the \$206.4 million in AIP noise mitigation grants awarded to 39 airports in fiscal 2010 and accelerates the downward trend in the amount of AIP grants being awarded for noise mitigation.

AIP funding levels for noise mitigation projects peaked in fiscal 2005 when 57 airports received a total of \$337.1 million. In fiscal 2006, the funding level for noise projects dropped to \$303.1 million. The funding level dropped again in fiscal 2007 to \$288.3 million and in fiscal 2008 to \$272.7 million and in fiscal 2009 to \$217.7 million.

Airport noise projects in fiscal 2011 were funded at level less than half of that in fiscal 2005. The drop in AIP noise project funding levels following fiscal 2005 reflects a congressionally-mandated broadening of the special noise set-aside in the AIP program to also fund airport emission mitigation projects.

The \$139.1 million in noise grants awarded in fiscal 2011 includes:

- \$41.1 million to 22 airports for sound insulation of homes;
- \$67.1 million to three airports for insulation of public buildings (schools);
- \$2.5 million to six airports for noise compatibility planning studies;
- \$27.6 million to nine airports for land acquisition;
- \$395,115 to two airports for a noise monitoring systems; and
- \$356,000 to one airport for other noise mitigation projects.

The AIP grants represent only one of two federal funding sources available to airport proprietors to fund noise mitigation projects. The other funding source is revenue from Passenger Facility Charges (PFCs). ANR reported in October that the total PFC revenue earmarked for airport noise mitigation projects since 1992 was \$3.2 billion, an increase of \$31.9 million over the end of fiscal 2010 total (23 ANR 34, 35).

O'Hare International Airport received the most AIP funding for noise mitigation in fiscal 2011: a total of \$34.8 million for school sound insulation.

The next highest AIP noise grant awards in fiscal 2011 went to LaGuardia Airport for school sound insulation (\$21.1 million); Los Angeles International for residential sound insulation (\$20 million); Ft. Lauderdale-Hollywood International for residential sound insulation (\$20 million); Teterboro Airport for school sound insulation (\$11.9 million); Milwaukee Gen. Mitchell International mostly for residential sound insulation (\$10.6 million); San Antonio International for residential sound insulation (\$9 million); Alexandria International for residential sound insulation (\$9 million); and San Diego International for residential sound insulation (\$9 million).

## In This Issue...

**AIP Grant Data ...** This special issue of ANR provides data on grants awarded to airports for noise compatibility planning and noise mitigation projects under the federal Airport Improvement Program in fiscal year 2011.

The FAA data show a continuing six-year downward trend in AIP funding for airport noise mitigation projects.

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**Sound Insulation ...** GA-Pacific roof board wins innovative products award - p. 172

**Table 1: AIP Grants for Residential Sound Insulation in Fiscal 2011 (by contour)**

<u>State</u>	<u>City</u>	<u>Airport</u>	<u>Sponsor</u>	<u>Amount</u>	<u>Contour</u>
AK	Anchorage	Anchorage Int'l	State of Alaska	\$2,389,520	65-69 DNL
CA	Fresno	Fresno Yosemite Int'l	City of Fresno	\$1,000,000	65-69 DNL
CA	Los Angeles	Los Angeles Int'l	City of El Segundo	\$5,000,000	65-69 DNL
CA	Los Angeles	Los Angeles Int'l	L.A. County	\$5,000,000	65-69 DNL
CA	Los Angeles	Los Angeles Int'l	City of Inglewood	\$7,000,000	65-69 DNL
CA	Los Angeles	Los Angeles Int'l	City of Inglewood	\$3,000,000	65-69 DNL
CA	Ontario	Ontario Int'l	City of Ontario	\$6,000,000	65-69 DNL
CA	San Diego	San Diego Int'l	Airport Authority	\$9,000,000	65-69 DNL
CT	Windsor Locks	Bradley Int'l	State of CT	\$3,360,000	65-69 DNL
FL	Ft. Lauderdale	Ft. Laud./Hollywd Int'l	Broward County	\$20,000,000	65-69 DNL
MS	Gulfport	Gulfport-Biloxi Int'l	Airport Authority	\$4,987,500	65-69 DNL
MT	Great Falls	Great Falls Int'l	Airport Authority	\$500,000	65-69 DNL
MT	Great Falls	Great Falls Int'l	Airport Authority	\$1,500,000	65-69 DNL
NV	Reno	Reno/Tahoe Int'l	Airport Authority	\$2,399,169	65-69 DNL
NV	Reno	Reno/Tahoe Int'l	Airport Authority	\$4,600,831	65-69 DNL
NY	Buffalo	Buffalo Niagara Int'l	Airport Authority	\$5,012,553`	65-69 DNL
OH	Cleveland	Cleveland Hopkins Int'l	City of Cleveland	\$4,160,000	65-69 DNL
OH	Columbus	Port Columbus Int'l	Airport Authority	\$2,967,547	65-69 DNL
PA	Allentown	Lehigh Valley Int'l	Airport Authority	\$3,137,531	65-69 DNL
PA	Philadelphia	Philadelphia Int'l	City of Philadelphia	\$5,156,983	65-69 DNL
TX	Houston	Bush Intercontinental	City of Houston	\$1,600,000	65-69 DNL
TX	Laredo	Laredo Int'l	City of Laredo	\$1,000,000	65-69 DNL

**Table 1 (Cont.): AIP Grants for Residential Sound Insulation in Fiscal 2011 (by contour)**

<u>State</u>	<u>City</u>	<u>Airport</u>	<u>Sponsor</u>	<u>Amount</u>	<u>Contour</u>
TX	Laredo	Laredo Int'l	City of Laredo	\$3,000,000	65-69 DNL
TX	San Antonio	San Antonio Int'l	City of San Antonio	\$3,197,427	65-69 DNL
TX	San Antonio	San Antonio Int'l	City of San Antonio	\$4,200,000	65-69 DNL
TX	San Antonio	San Antonio Int'l	City of San Antonio	\$1,602,573	65-69 DNL
WA	Seattle	King County Int'l	King County	\$5,000,000	65-69 DNL
WA	Seattle	King County Int'l	King County	\$3,000,000	65-69 DNL
WI	Milwaukee	Gen. Mitchell Int'l	Milwaukee County	\$3,500,000	65-69 DNL
WI	Milwaukee	Gen. Mitchell Int'l	Milwaukee County	\$6,909,000	65-69 DNL
LA	Alexandria	Alexandria Int'l	Econ. Dev. District	\$6,000,000	70-74 DNL
LA	Alexandria	Alexandria Int'l	Econ. Dev. District	\$3,000,000	70-74 DNNL
MA	Westfield	Barnes Municipal	City of Westfield	\$1,502,038	70-74 DNL
NY	Buffalo	Buffalo Niagara Int'l	Airport Authority	\$209,000	70-74 DNL

***Grand Total: Residential Sound Insulation (all contours): \$41,120,038***

**Table 2: AIP Grants for Noise Compatibility Planning Studies in Fiscal 2011**

<u>State</u>	<u>City</u>	<u>Airport</u>	<u>Sponsor</u>	<u>Amount</u>
AZ	Bullhead City	Laughlin	Mohave County	\$313,500
AZ	Phoenix	Sky Harbor Int'l	City of Phoenix	\$372,600
CA	Burbank	Bob Hope	Airport Authority	\$805,900
CA	Hawthorne	Hawthorne Mun.	City of Hawthorne	\$347,700
FL	Key West	Key West Int'l	Monroe County	\$412,000
TX	Laredo	Laredo Int'l	City of Laredo	\$285,000

***Grand Total: Grants for Noise Compatibility Planning Studies: \$2,536,700***

**Table 3: AIP Grants for Land Acquisition in Fiscal 2011 (by contour)**

<u>State</u>	<u>City</u>	<u>Airport</u>	<u>Sponsor</u>	<u>Amount</u>	<u>Contour</u>
CT	Oxford	Waterbury-Oxford	State of CT	\$5,000,000	65-69 DNL
LA	Baton Rouge	Baton Rouge Metro	Baton Rouge	\$2,289,500	65-69 DNL
NV	Las Vegas	McCarran Int'l	Clark County	\$8,464,336	65-69 DNL
TX	Houston	Bush Intercontin'l	City of Houston	\$534,685	65-69 DNL
VT	Burlington	Burlington Int'l	City of Burlington	\$3,168,250	65-69 DNL
VT	Burlington	Burlington Int'l	City of Burlington	\$2,935,025	65-69 DNL
MA	Springfield	Westover ARB	Westover Corp.	\$2,500,000	70-74 DNL
MA	Westfield	Barnes Municipal	City of Westfield	\$991,522	70-74 DNL
NC	Greensboro	Piedont Triad Int'l	Airport Authority	\$1,602,984	70-74 DNL
VA	Norfolk	Norfolk Int'l	Airport Authority	\$200,540	75 DNL

***Grand Total: Grants for Land Acquisition: \$27,686,842***

**Table 4: AIP Grants for Installation of Noise Monitoring Systems in Fiscal 2011**

<u>State</u>	<u>City</u>	<u>Airport</u>	<u>Sponsor</u>	<u>Amount</u>
NC	Greensboro	Piedmont Triad Int'l	Airport Authority	\$163,115
WI	Milwaukee	Gen. Mitchell Int'l	Milwaukee County	\$232,000

***Grand Total: Grants for Installation of Noise Monitoring Systems: \$395,115***

**Table 5: AIP Grants for Sound Insulation of Public Buildings (Schools) in Fiscal 2011**

<u>State</u>	<u>City</u>	<u>Airport</u>	<u>Sponsor</u>	<u>Amount</u>	<u>Contour</u>
IL	Chicago	Chicago O'Hare Int'l	School District	\$800,000	not specified
IL	Chicago	Chicago O'Hare Int'l	High School	\$1,500,000	not specified
IL	Chicago	Chicago O'Hare Int'l	High School	\$20,900,000	not specified
IL	Chicago	Chicago O'Hare Int'l	School District	\$11,600,000	not specified
NJ	Teterboro	Teterboro	PANYNJ	\$11,964,708	not specified
NY	New York	LaGuardia	PANYNJ	\$21,134,896	not specified

***Grand Total: Sound Insulation of Public Buildings: \$67,100,404***

**Table 6: AIP Grants for Other Noise Mitigation Measures in Fiscal 2011**

<u>State</u>	<u>City</u>	<u>Airport</u>	<u>Sponsor</u>	<u>Amount</u>
WI	Milwaukee	Gen. Mitchell Int'l	Milwaukee County	\$356,000 (project not specified)

***Grand Total: Grants for Other Noise Mitigation Measures: \$356,000***

**Table 7: AIP Grants by Airport for All Noise Mitigation Projects in Fiscal 2011**

<u>State</u>	<u>Airport</u>	<u>Insulation</u>	<u>Studies</u>	<u>Land/Other</u>	<u>Monitoring</u>	<u>Total</u>
AK	Anchorage	\$2,389,520				\$2,389,520
AZ	Laughlin		\$313,500			\$313,500
AZ	Phoenix		\$372,600			\$372,600
CA	Fresno	\$1,000,000				\$1,000,000
CA	Bob Hope		\$805,900			\$805,900
CA	Hawthorne		\$347,700			\$347,700
CA	LAX	\$20,000,000				\$20,000,000
CA	Ontario	\$6,000,000				\$6,000,000
CA	San Diego	\$9,000,000				\$9,000,000
CT	Bradley	\$3,360,000				\$3,360,000
CT	Oxford			\$5,000,000		\$5,000,000
FL	Ft. Lauder.	\$20,000,000				\$20,000,000
FL	Key West		\$412,000			\$412,000
IL	O'Hare	\$34,800,000				\$34,800,000
LA	Alexandria	\$9,000,000				\$9,000,000
LA	Baton Rouge			\$2,289,500		\$2,289,500
MA	Barnes	\$1,502,038		\$991,522		\$2,493,560
MA	Westover AFB			\$2,500,000		\$2,500,000
MS	Gulfport	\$4,987,500				\$4,987,500
MT	Great Falls	\$2,000,000				\$2,000,000
NC	Greensboro			\$1,602,984	\$163,115	\$1,766,099
NJ	Teterboro	\$11,964,708				\$11,964,708

**Table 7 (Cont.): AIP Grants by Airport for All Noise Mitigation Projects in Fiscal 2011**

<u>State</u>	<u>Airport</u>	<u>Insulation</u>	<u>Studies</u>	<u>Land/Easements</u>	<u>Monitoring</u>	<u>Total</u>
NV	Las Vegas			\$8,464,336		\$8,464,336
NV	Reno-Tahoe	\$7,000,000				\$7,000,000
NY	Buffalo	\$5,221,553				\$5,221,553
NY	LaGuardia	\$21,134,896				\$21,134,896
OH	Cleveland	\$4,160,000				\$4,160,000
OH	Columbus	\$2,967,547				\$2,967,547
PA	Allentown	\$3,137,531				\$3,137,531
PA	Philadelphia	\$5,156,983				\$5,156,983
TX	Houston	\$1,600,000		\$534,685		\$2,134,685
TX	Laredo	\$4,000,000	\$285,000			\$4,285,000
TX	San Antonio	\$9,000,000				\$9,000,000
VA	Norfolk			\$200,540		\$200,540
VT	Burlington			\$6,103,275		\$6,103,275
WA	King County	\$8,000,000				\$8,000,000
WI	Milwaukee	\$10,409,000	(\$356,000 unspecified)		\$232,000	\$10,997,000

**Grand Total: All AIP Grants for Noise Projects: \$139,195,099**

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### *Sound Insulation*

## GA-PACIFIC ROOF SOUND ASSEMBLY WINS INNOVATIVE PRODUCTS AWARD

Georgia-Pacific Gypsum – a leading manufacturer and supplier of gypsum building materials – has been selected as a recipient of the inaugural Architectural Products Product Innovation Award (PIA) for its innovative roofing sound assembly system featuring DensDeck® Roof Boards.

The assemblies, which include DensDeck Roof Boards, provide high levels of sound attenuation, an especially important attribute as new code and building programs call for sound mitigation in wall and roof-ceiling assemblies, especially in high noise areas around airports, expressways, light rail and railroads and military bases.

Also, DensDeck is the first gypsum roof boards tested to contribute to Sound Transmission Class (STC) ratings of up to 61 and Outdoor Indoor Transmission Class (OITC) ratings of up to 49 in roofing assemblies for commercial framed construction, Georgia-Pacific said.

All honorees will be spotlighted in a featured special report in the November 2011 issue of Architectural Products magazine, in both print and digital format. Visit [www.arch-products.com](http://www.arch-products.com) for details.

“Earning a Product Innovation Award further validates the unprecedented effectiveness of our DensDeck Roof Board assemblies in dramatically remediating sound in high-noise areas,” said Reinhard Schneider, technical manager, DensDeck, Georgia-Pacific Gypsum. “We thank Architectural Products for this honor, and salute our product development team for continuing to improve and upgrade our industry-leading roofing products.”

The Architectural Products Product Innovation Awards (PIA) recognize products, materials and systems innovation that lead commercial and institutional design to new heights. With judging and evaluation of products and systems from a distinguished panel of 44 architects and specification specialists skilled in product evaluation, the PIA program awards manufacturers based on attributes, qualities, functionality and/or performance beyond industry standards.

Introduced to the market 25 years ago, with hundreds of millions of square feet on the market, DensDeck Roof Boards from Georgia-Pacific Gypsum are the number one architecturally specified fiberglass mat gypsum roofing boards, the company said. “Recent testing showed that in specific assemblies, DensDeck can help obtain superior STC and OITC ratings and can help meet UL Class A fire ratings, the highest rating for fire resistance under ASTM E-108.”

## AIRPORT NOISE REPORT

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# Airport Noise Report



A weekly update on litigation, regulations, and technological developments

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## *New Orleans Int'l*

### **PLAN UNDER DEVELOPMENT TO SPEED REDEVELOPMENT OF NOISE BUFFER LAND**

A plan is being developed by the cities of Kenner, LA, and New Orleans, and New Orleans International Airport to speed up redevelopment of 80 parcels of land in a 100-acre noise buffer zone south and east of the airport that was cleared of homes in the 1990s.

They are working with professors from the University of New Orleans (UNO) who are devising the most viable method of selling the properties.

"We are awaiting their advice on the best way to proceed," Mike Quigley, chief administrative officer of the City of Kenner, told ANR. All the properties in the noise buffer zone are located in the City of Kenner. Some 1,500 residents were moved out of the buffer zone 15 years ago and the land has essentially remained undeveloped ever since. Kenner is missing out on the sales and property tax revenue that the land sitting dormant could provide, which is estimated to be between \$2.5 million to \$5.9 million a year.

Quigley said the city is concerned that developers will want to cherry pick only the most attractive properties and, at the end of the day, the city will be stuck with  
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## *Litigation*

### **DOJ DECIDES NOT TO ASK SUPREME COURT TO REVIEW 9TH CIRCUIT'S RULING IN BARNES**

Lawyers for the Department of Justice considered but finally decided not to ask the U.S. Supreme Court to review a ruling by a panel of the Ninth Circuit Court of Appeals that handed the Federal Aviation Administration a rare loss in an airport expansion case.

Nov. 23 was the deadline for asking the High Court to review the Ninth Circuit panel's decision in *Michelle Barnes et al. v. U.S. Department of Transportation* (23 ANR 109). DOJ attorneys also passed up the deadline for asking the full Ninth Circuit to rehear the case.

In *Barnes*, the majority of a three-judge panel refused to defer to FAA's expert opinion that a new runway at general aviation Hillsboro Airport near Portland, OR, would not result in increased demand to use the airport. They said FAA's opinion was not substantiated by actual analysis.

They also rejected the contention of federal attorneys that current case law dictates that the FAA need not account for the growth-inducing effects of a runway project designed to alleviate current airport congestion.

The dissenting judge in the case argued that the majority flouted Ninth Circuit

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the less attractive properties.

New Orleans is involved in the development of the plan for selling the noise land because it is the proprietor of New Orleans International.

The plan under consideration for redevelopment of the noise buffer zone is three pronged: finding ways to move the properties onto the market quickly, adopting flexible zoning to generate interest by developers, and packaging properties in a way that ensures that the least desirable ones are sold.

Kenner and New Orleans officials are trying to cut from 16 months to two months the time it takes to maneuver the sale of noise buffer land through the bureaucratic approval process.

The noise buffer land cannot be redeveloped with housing but can be zoned for commercial uses, such as offices and shops. The airport and City of New Orleans want the City of Kenner to take the lead in deciding how to reuse the property.

Any redevelopment proposals will have to go through a public hearings process to ensure that the community has input, especially regarding land that abuts residential areas.

The University of New Orleans professors are studying potential uses for the noise buffer property and want to use flexible zoning to give developers and Kenner as many options as possible for the land.

**Response to DOT Audit Report**

Like other airports around the country, Kenner, New Orleans, and the airport are responding to a 2005 audit report by the Department of Transportation's Office of Inspector General that criticized airports for not selling land that was acquired with federal grants for noise mitigation so that it can be put back into commerce.

While the audit found no deliberate attempt by airports to circumvent federal grant obligations, it said that airports had no clear understanding of their obligations regarding disposal of unneeded noise land.

In response to the IG's audit report, the Federal Aviation Administration in February 2008 issued guidance on the acquisition, management, and disposal of land acquired for noise mitigation purposes with federal Airport Improvement Program (AIP) grants (20 ANR 13).

The purpose of the Program Guidance Letter was to provide airports and FAA personnel with the information needed to meet the requirements of Grant Assurance 31 for the AIP program, which ensures that when land acquired by AIP grants is no longer needed for noise compatibility purposes, it will be converted to a use compatible with the airport and the federal share of the fair market value of the land will be recycled to support other noise mitigation efforts or will be returned to the Aviation Trust Fund.

Since the DOT audit report was released, New Orleans has traded several pieces of land in the noise buffer zone of New Orleans International but has not brought that land into commerce.

***Los Angeles Int'l*****LAWA AWARDS \$1.3 M CONTRACT FOR HOME SOUND INSULATION**

In related news, the Los Angeles Board of Airport Commissioners on Nov. 7 awarded a contract to NSA Construction Group, Inc. of Tarzana, CA, for a portion of the work being undertaken as part of the Los Angeles International Airport (LAX) Residential Soundproofing Program.

The contract, for \$1,350,800, covers sound-insulation modifications on 57 dwellings consisting of one 20-unit apartment building, three triplexes and 28 single-family homes, all within Los Angeles City Council District 8.

The overall LAX Residential Soundproofing Program includes approximately 9,400 residences in the City of Los Angeles communities of South Los Angeles, Westchester and Playa del Rey that have been recorded with a Community Noise Equivalent Level of 65 decibels or higher.

Contractors typically installed double-paned windows, solid-core doors, fireplace doors and dampers, attic baffles, insulation and heating-ventilation-air conditioning (HVAC) to achieve a noise-level reduction of approximately one-half in a home's interior.

The 57 dwellings units in this project will bring the total units completed, under construction or approved by the Board to date to 6,990. The remaining 2,410 units are either in the design phase, awaiting commencement of design, or the owners have not responded or declined to participate.

***Business*****L&B OPENS OFFICE IN LONDON TO BETTER SERVE EUROPE**

The aviation consulting firm Landrum & Brown (L&B) announced recently that it has opened an office in London to better serve the rapidly growing aviation market in Europe and elsewhere around the world.

The firm said that its new office, located at 101 Wigmore Street in London, will enable it "to provide an even higher level of service and responsiveness to our clients in the UK, Austria, Poland, and elsewhere on the European continent."

Win Beyea, Vice President of L&B Worldwide Services, will lead L&B's European operation. He brings over 37 years of airport master planning and terminal planning at over 100 airport projects around the world. His expertise extends to airport facility planning, terminal planning and programming, airfield and roadway conceptual layout, land use planning, airspace analysis, program delivery and implementation, public involvement, and client and agency liaison. He has held key management responsibilities for assignments at more than 60 major commercial airports, 45 general aviation and secondary airports, and six aviation system plans. He has worked extensively in Europe and the Pacific Rim, as well as

throughout the United States.

Said Doug Goldberg, President of L&B Worldwide Services, “We are proud to have the opportunity to serve our clients in Europe with the same passion, foresight, and responsiveness that airports enjoy in Greater China, Southeast Asia, the Middle East, Australasia, and the Americas.”

### ***Business Acquisitions***

## **CZECK FIRM OMNIPOL ACQUIRES ERA FROM SRA INTERNATIONAL**

ERA a.s., a former subsidiary of SRA International, Inc., announced Nov. 21 that it has been acquired by the Czech firm OMNIPOL a.s.

ERA is a pioneer and leading supplier of next-generation surveillance and flight tracking solutions for the air traffic management, military, security, and airport operations markets. The company has over 100 airport, air traffic management, and military customers throughout the world.

“OMNIPOL, based in Prague Czech Republic, is a world-recognized brand associated with global trading activities in a number of diverse industries. With a recent focus on civil and military aviation technology, OMNIPOL has now strengthened its market offerings with the acquisition of the world’s premier provider of civil and military aircraft multi-lateration based surveillance technology,” ERA said in a press release.

Vladislav Hofman, Managing Director for ERA a.s., said, “This strategic partnership solidifies ERA’s position in the global market and increases its coverage of Aircraft Navigation Service Providers (ANSP) and Military organizations. We are pleased and excited to become a part of the Omnipol family of companies.”

“With seventy five years of experience and over 5.5B Czech Crowns [US \$292 million] annual turnover OMNIPOL has represented the commercial interests of many Czech based companies in international markets,” ERA explained. It said that OMNIPOL has traditionally been a supplier of high-quality defense, and public security related solutions to overseas government agencies and contractors and a key supplier of technology to the Czech MOD and aviation industries.

### ***Litigation, from p. 173***

precedent and that the FAA is not required to consider whether a development project intended to reduce congestion and delay will itself induce additional demand.

The majority used the FAA’s own words to conclude that it is possible that the new GA runway will attract new traffic and said it believes that Ninth Circuit precedent is “completely inadequate for cases involving the construction of additional runways,” and in such cases, “a case-by-case approach is needed.”

The Ninth Circuit panel remanded the Environmental As-

essment (EA) done on the Hillsboro runway to FAA for further study. FAA has not indicated what kind of additional study it will do to respond to panel’s ruling or whether it will expand the EA into a full Environmental Impact Statement as the airport neighbor plaintiffs in the case had sought.

“All we can say at this time is that the FAA intends to fully comply with the remand of the Ninth Circuit to analyze the indirect effects of the proposed action and we are beginning that process,” an FAA spokesman in the agency’s NW Mountain Region told ANR.

### ***Minneapolis-St. Paul Int’l***

## **FAA STUDYING CAUSE OF NOISE INCREASE OVER S. MINNEAPOLIS**

In September 2010, the Federal Aviation Administration changed takeoff procedures on parallel runways at Minneapolis-St. Paul International Airport following the near collision of a passenger jet and cargo plane.

Residents of the neighborhoods that had the takeoffs directed over them (due to a sharp right turn) noticed the increased noise impact in the spring and began complaining to the Metropolitan Airports Commission (MAC), the airport proprietor, and to local elected officials, neither of which had been informed of the change by the FAA.

FAA initially blamed the noise increase on wind conditions and airline scheduling but finally confirmed in September that a change in takeoff procedure had been put in effect. In October, more than 150 people packed a MAC meeting urging officials to do something to reduce the noise impact. Some residents of the affected areas are skeptical that the change in takeoff procedures is the sole cause for the noise increase over their homes. Others want sound insulation but airport officials say the noise increase is not significant enough to warrant their inclusion in the airport’s residential sound insulation program.

Data indicate that aircraft flights over several south Minneapolis neighborhoods have increased by approximately 25 percent from January through August 2010 to 2011.

In mid-November, Carl Rydeen, FAA assistant air traffic manager at MSP, said the FAA is reviewing whether other factors, such as a change in aircraft type, altitude on takeoff, or other takeoff procedures, might be contributing to the increased noise impact over south Minneapolis.

The agency “is looking at a variety of data in response to neighborhood noise complaints,” a spokeswoman for FAA’s Great Lakes Region told ANR. “We’re reviewing procedures at the airport and in the surrounding airspace.” She did not know when the review would be done.

One airport neighbor speculated that the sharp right turn directing planes over south Minneapolis was put in effect to save the airlines time and fuel. But Delta’s chief pilot said it is not the airline’s policy to keep aircraft low on takeoff and that such practice does not save fuel.

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*In Brief...*

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### Gen. Mitchell Int'l AIP Noise Grant

The Nov. 25 issue of ANR included an unidentified \$356,000 AIP noise grant for Milwaukee Gen. Mitchell International Airport. It was listed in Table 6 on p. 169. The grant was for a noise barrier study, according to Kim Berry, Airport Noise Program Manager.

### FAA Approves Kellogg Airport Noise Maps

FAA announced Nov. 21 that noise exposure maps submitted by the City of Battle Creek, MI, for W. Kellogg Airport meet federal requirements.

The agency also said it was reviewing a proposed Part 150 Airport Noise Compatibility Program for the airport and that its review would be completed on or before April 28, 2012. For further information, contact Katherine Delaney in FAA's Romulus MI, office; tel: (734) 229-2900; e-mail: Katherine.S.Delaney@faa.gov.

### Noise Research Pays Off at San Diego Int'l

The Transportation Research Board's TR News September-October issue includes an article entitled "Research Pays Off: Better Communication to Mitigate Complaints About Aircraft Noise: Initiatives at San Diego International Airport," by Dan Frazee, director, Airport Noise Mitigation, San Diego International Airport.

The issue, which focuses on the theme "Positioning Aviation for Skies Unlimited," is available at <http://www.trb.org/main/blurbs/166207.aspx>.

### P&W Engine Wins Time Magazine Award

TIME Magazine has named Pratt & Whitney's PurePower® PW1000G engine as one of "The 50 Best Inventions of 2011," describing it as "the most important development in aviation in 2011."

"We are very pleased to accept this recognition from TIME Magazine," Paul Adams, P&W's senior vice president, Operations & Engineering, said in a Nov. 21 announcement. "The PurePower Geared Turbofan engine is setting a new standard in the industry for efficiency and environmental friendliness."

The PurePower family of engines is designed to power the next generation of passenger aircraft. The combination of its gear system and advanced core allows PurePower engines to deliver double-digit improvements in fuel efficiency and emissions with a 50-percent reduction in noise over today's engines, P&W said.

## AIRPORT NOISE REPORT

Anne H. Kohut, Publisher

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# Airport Noise Report



A weekly update on litigation, regulations, and technological developments

Volume 23, Number 43

December 9, 2011

## Disclosure

### ACRP LEGAL DIGEST ON FAIR DISCLOSURE IN REAL ESTATE TRANSFERS ISSUED BY TRB

The Transportation Research Board's Airport Cooperative Research Program (ACRP) has published a Legal Research Digest discussing whether and under what circumstances a seller of residential real property or local authorities must give notice to a prospective home buyer that the property is affected by its proximity to an airport and by airport noise impact.

Legal Research Digest 12: "Fair Disclosure and Airport Impact Statements in Real Estate Transfers" examines the effect of a state or locality having no real property disclosure laws, explores existing general state real property disclosure laws, and discusses existing state real property disclosure laws specifically requiring the disclosure of airports in close proximity to the property being offered for sale.

"In the absence of a residential real property disclosure act, the doctrine of caveat emptor ("Let the buyer beware") usually applies," a summary of the digest explains. "Under the caveat emptor doctrine, it is a buyer's responsibility to perform the due diligence regarding a property he or she intends to purchase. In those states without disclosure acts a seller's obligation or duty to disclose defects or

*(Continued on p. 178)*

## T.F. Green Airport

### CITY OF WARWICK TO CHALLENGE FAA ROD APPROVING RUNWAY EXTENSION PROJECT

The Warwick, RI, City Council voted unanimously in November to challenge the Federal Aviation Administration's Record of Decision (ROD) approving the T.F. Green Airport Improvement Program, which includes the extension of the main runway to allow non-stop flights to Europe and the West Coast.

The City Council's resolution directing the litigation also specifies that the Taber Law Group of Irvine, CA, will represent the city in the challenge to the ROD and seeks \$65,024 to pay the firm.

Warwick Mayor Scott Avedisian agreed to make the funding available to the Taber Law Group but told the City Council in a Nov. 17 letter that he remained "particularly concerned about the process that the City Council followed to choose its preferred attorney."

ANR attempted to learn more about that process but the mayor is out of town and Camille Vella-Wilkinson, the City Councilwoman who sponsored the resolution to challenge the ROD, has not yet responded to questions posed by ANR.

Cost may have been a significant factor in the City Council's insistence that the Taber Law Group handle the litigation. Steven Taber, who at one point in his career

*(Continued on p. 179)*

## In This Issue...

**Real Estate Disclosure ...** TRB issues a new ACRP Legal Research Digest that discusses fair disclosure in residential real estate transactions, including when aircraft noise impact must be disclosed - p. 177

**T.F. Green Airport ...** The Warwick, RI, City Council votes unanimously to challenge FAA's approval of the extension of the main runway. The mayor criticizes the Council for not accepting an agreement he had reached with the state that would have addressed environmental impact - p. 177

**Sonic Boom ...** NASA completes latest quiet boom study at Edwards Air Force Base; asks 100 residents about their attitudes toward sonic booms - p. 178

**Wind Tunnels ...** Researchers with the National Research Council of Canada modify a wind tunnel in Ottawa so that it can detect every nuance of noise from aircraft landing gear - p. 179

**ACRP, from p. 177**

conditions affecting property is likely to be limited by the caveat emptor doctrine.

“Also, under the doctrine a seller generally is not obligated to reveal all that he or she knows about the property. Except in the circumstances noted in Appendix A, the rule prevents a buyer from suing a seller to rescind a contract or for damages.

“The recent trend in the states is the enactment of residential real property disclosure laws. For purposes of this digest, the disclosure laws are of two types: 1) general residential real property disclosure laws, and 2) residential real property laws applicable to the disclosure of the proximity of airports and airport noise affecting property offered for sale.

“Approximately two-thirds of the states have enacted general residential real property disclosure laws. The purpose of such laws is to provide prospective home buyers with sufficient information to enable them to make informed decisions about the purchase of residential property. See Appendices A and B for a more comprehensive analysis of the provisions of the acts.

“Significantly, no circumstances were found in which a disclosure statute lacking an airport disclosure provision has been used to require notification to a prospective buyer of airport proximity or noise.

“Some states specifically require the disclosure of an airport or the effect of aviation operations to a prospective purchaser of residential property. The digest discusses the features of such laws requiring the disclosure of airport noise, flight paths, and other effects of airports to prospective purchasers of property in the vicinity of an airport. Appendix C contains a matrix of these laws. Under most residential real property disclosure laws, the requirement to disclose is generally imposed on the seller or his or her agent.

“Section II of the digest examines states with airport disclosure laws and discusses when and in what manner a seller must disclose that residential property being offered for sale is within the boundaries of an airport noise exposure map, an airport influence area, or is situated in a military Air Installation Compatible Use Zone (AICUZ).

“Section III of the digest discusses whether a state’s enactment of an airport disclosure act is an exercise of the state’s police power or amounts to a regulatory taking of property that requires the payment of just compensation to property owners affected by a disclosure act’s requirements.

“Section IV discusses whether an airport disclosure statement would have an effect on a buyer’s claim for noise damages after the buyer purchased property knowing that it was subject to airport noise.

“Section V addresses the effect of noise studies and contour maps on claims for airport noise damages.

“Section VI is a typical fair airport disclosure act developed for the digest that includes comments on proposed provisions and issues relevant to the enactment and use of an airport disclosure statute.

The digest is available at: <http://www.trb.org/Publications/Blurbs/166355.aspx>.

**Sonic Boom****NASA COMPLETES LATEST QUIET BOOM STUDY AT EDWARDS AFB**

*[The National Aeronautics and Space Administration’s Dryden Flight Research Center issued the following release on Dec. 1 written by Gray Creech in the Center’s Public Affairs Office.]*

NASA’s Dryden Flight Research Center recently completed NASA’s latest quiet sonic boom research study at Edwards Air Force Base.

The Waveforms and Sonic boom Perception and Response, or WSPR, project gathered data from a select group of more than 100 volunteer Edwards Air Force Base residents on their individual attitudes toward sonic booms produced by aircraft in supersonic flight over Edwards.

NASA and industry are studying technology that will reduce the noise and annoyance associated with sonic booms to the point where aircraft flying over populated areas at supersonic speeds do not disturb the peace, and aviation and governmental authorities may consider lifting prohibitions. But before the current restrictions on supersonic flight over land can be changed, much research is needed to understand how individuals and communities react to low-noise sonic booms.

WSPR’s primary purpose is to develop data collection methods and test protocols for future public perception studies in communities that do not usually experience sonic booms. The base’s unique flight-test airspace puts Edwards residents in a position to experience loud booms regularly, so their reactions to low-noise booms will be a valuable guide for future work in sonic boom perception and response.

“Understanding the study participants’ responses to sonic booms is very important to NASA,” said Larry Cliatt, Dryden’s principal investigator for the research effort. “We’re pleased with their participation.”

One of the instruments used for the WSPR project is the SNOOPI sonic boom recorder, short for Supersonic Notification of OverPressure Instrumentation, mounted inside a commercial doghouse. SNOOPI records local sonic booms by date, time and intensity, 24-hours a day, seven days a week. (NASA / Tom Tschida) > [View Larger Image](#)

Participants used a standard questionnaire to provide information every time they heard any sonic boom while at home. In keeping with the “there’s an app for that” age, some participants responded using smart phones with apps supplied by the WSPR project. Other study participants used a web-based application, and some used paper forms.

For the supersonic flight portion of the research that occurred between Nov. 4 and Nov. 18, NASA F/A-18 aircraft flew specific flight profiles to generate booms, while NASA

researchers monitored the flights, noting precise times and actual boom intensities recorded by ground instruments installed in the Edwards' base housing areas. Dryden conducted 22 flights during the test period, yielding 82 quiet sonic booms and five of normal intensity. The softest WSPR project boom was recorded at .08 pounds per square foot (psf) overpressure, while the loudest registered well within the normal range at 1.4 psf.

NASA Dryden takes great care to ensure that loud sonic booms do not impact residential communities, using preflight weather balloons and sonic boom analysis before every sonic boom research flight.

Dryden's partners in the WSPR effort include NASA's Langley Research Center, Wyle Laboratories, Gulfstream Aerospace Corp., Fidell Associates Inc., Pennsylvania State University and Tetra Tech. The cooperation of Edwards Air Force Base personnel was crucial to the study's success.

WSPR is funded by NASA's Aeronautics Research Mission Directorate and managed by the Supersonics Project in the directorate's Fundamental Aeronautics Program.

## Research

### CANADIAN WIND TUNNEL HELPING IDENTIFY LANDING NOISE CAUSES

*[The National Research Council Canada issued the following release on Dec. 1.]*

For anyone living near an airport, the rumbling of airplanes coming in for a landing is all too familiar. But Canadian researchers are finding ways to reduce that noise in a facility designed to study the sounds that come from the interaction of certain airplane parts and wind.

Indeed, half the noise made by an approaching airplane comes from fast-moving air flowing over the parts of the aircraft that are used for landing, such as flaps, slats and landing gear, according to NRC researcher Jerry Syms.

Flaps and slats are flat pieces of metal that are extended out on the wing when a plane needs a lot of lift at slow speeds. Those, plus the landing gear, create drag and help an airplane slow down. They are also important sources of the noise heard as aircraft slow down for descent and landing. The engine roar is only half of the noise equation when a plane is near the ground, Syms says.

There is a general move in the airline industry to make airplanes quieter. Together, the International Civil Aviation Organization (ICAO) and NASA's Environmentally Responsible Aviation program have set regulations to reduce emissions and noise. In the next 10 years, regulations will aim to reduce noise generated by commercial aircraft by 32 decibels relative to the current standard.

So, how does one study wind, noise and airplane parts? In a modified wind tunnel, of course. And that's what NRC researchers did, modifying one of NRC's Ottawa wind tunnels

so that it could detect every nuance of noise from aircraft landing gear. They took sections of acoustic foam (resembling grey cardboard egg cartons) and mounted them inside metal frames. The frames were then covered in a fine mesh to create a smooth surface and cover up the lumps. The foam-filled frames were then mounted on the floor, ceiling and walls of a wind tunnel that measures two metres high and three metres wide.

A total of 64 microphones were placed inside the aero-acoustic wind tunnel, recessed in cavities in the foam so wind doesn't blow over the mikes. The result is a wind tunnel in which the sounds of air blowing over objects inside it can be accurately measured. The tunnel is unique in Canada.

"We made an aerodynamic tunnel into an acoustic facility," says Syms. "We now have the capability to accurately measure the noise generated by air flowing around aircraft components. Conveniently, we can remove the whole assembly if we need to convert the tunnel back to its original form."

One project Syms recently completed was to study the sounds emitted by wind flowing over the landing gear from a business jet. The gear was mounted in the middle of the converted wind tunnel, then exposed to winds of 145 knots (about 270 kilometres per hour).

"That is a typical approach speed for a plane heading in for landing," Syms says. People on the ground would hear a loud rumbling from a plane of that size travelling at that speed. He adds that it's possible to generate almost twice that speed of wind if needed for other projects.

While the gear is being exposed to the wind, video and audio devices record what happens. Researchers then produce sound maps from the test data that show exactly how much noise is coming from each part of the gear assembly.

The plane's manufacturer can then use the information provided by NRC's researchers to redesign or alter parts so they create less noise when exposed to fast moving air, Syms says. The acoustically modified wind tunnel could play a big role in helping manufacturers develop future generations of quieter, greener aircraft.

### Warwick, from p. 177

served as an FAA attorney, stresses on his website that he founded his law firm in July 2010 "to provide cost-efficient, top-quality service to environmental, aviation and airport clients."

"With hourly rates at large law firms significantly over the \$300 per hour mark, it has become increasingly difficult or impossible for clients to obtain cost-efficient legal representation. At the same time, environmental liability, and risks and liability associated with running an airport have increased exponentially," Taber's website notes.

In a letter to the editor of a local newspaper, City Council, Mayor Avedisian said that over the past decade his administration had "spent a substantial amount of time researching the City's legal options and interviewing no fewer than eight nationally prominent law firms with considerable experience

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in airports and aviation law. We were advised as we worked our way through the process that we should keep all of our legal options open but that the most beneficial course of action was to negotiate an agreement with the airport operator – the Rhode Island Airport Corporation (RIAC) – and attempt to have that agreement included in the final ROD.”

In July 2010, the mayor submitted to the City Council for consideration a draft memorandum of agreement (MOA) that he had drafted with RIAC during several months of negotiations. However, the draft MOA was rejected by the City Council “with minimal discussion, no suggestions on how to improve the agreement, and with no direction to RIAC or the administration as to what the City Council wanted to include,” the mayor explained.

He said the draft MOU included items such as:

- Relocation of sports fields to new facilities outside the existing flight path;
- Set mutually acceptable (to RIAC and the City) boundaries on the extent of homes to be acquired for noise mitigation “rather than following the piecemeal practices of the past that have resulted in isolated homes and fractured neighborhoods”;
- Development of a Comprehensive Land Use Plan that would allow for the creation of appropriate development around the airport. It would put property back on the tax rolls and RIAC would pay 25 percent of the cost of the City’s comprehensive plan update, which is currently under way. The City currently loses approximately \$11 million annually in property tax revenue due to prior land acquisitions;
- The relocation and installation of a new water main at no cost to the city. The current water main has a long history of problems;
- RIAC agreed to continue performing air quality monitoring in accordance with state laws, to add an additional air monitoring station near an elementary school, and to extend the air monitoring beyond the statutory end date of July 31, 2015.

RIAC also had agreed at the time to petition the FAA to include the MOA as part of the agency’s ROD, thereby making it legally enforceable and making FAA funding contingent on adhering to the terms of the agreement. But that opportunity was lost, the mayor said.

“And for these concessions, the City would simply agree not to challenge the ROD on the mutually agreed upon points that are contained in the agreement. This seemed a reasonable position in that one would not appeal items that were determined to be mutually agreed upon,” the mayor wrote.

“Yet now, certain City Council members are quoted in the media as claiming that they needed to sue the FAA in order to negotiate such an agreement with RIAC due to concerns about such issues as air quality monitoring, a schedule for residential acquisition, etc. The fact of the matter is these issues were all addressed in the Draft MOA that was offered to and rejected by the City Council in July 2010.”

### AIRPORT NOISE REPORT

Anne H. Kohut, Publisher

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# Airport Noise Report



A weekly update on litigation, regulations, and technological developments

Volume 23, Number 44

December 21, 2011

## Helicopters

### EAST HAMPTON TO BEGIN PART 161 STUDY OF NIGHT HELICOPTER NOISE RESTRICTION

The first attempt by an airport proprietor in the United States to impose a mandatory nighttime noise restriction on helicopter operations under the Federal Aviation Administration's Part 161 Regulations on Notice and Approval of Airport Noise and Access Restrictions will begin within the next four to six weeks at East Hampton Airport on Long Island, NY.

Because helicopters are designated as Stage 2 aircraft, FAA approval of the restriction is not required under the Part 161 regulations, said attorney Peter Kirsch, who is advising the Town of East Hampton and led the City of Naples in its successful effort a decade ago to impose a noise restriction under Part 161 on Stage 2 business jet operations at Naples Airport.

But it took five years of litigation and millions of dollars to get the Stage 2 restriction imposed at Naples. And, while the U.S. Court of Appeals for the District of Columbia Circuit upheld the Naples' restriction in 2005, it also deferred to FAA's assertion that the Airport Noise and Capacity Act of 1990 (ANCA) allows the agency to subject restrictions on Stage 2 aircraft to grant assurance standards of

*(Continued on p. 182)*

## NextGen

### FAA SEEKS PUBLIC COMMENT ON TRANSITION TO PERFORMANCE-BASED NAVIGATION (PBN)

The Federal Aviation Administration is seeking comments on a proposed transition of the U.S. national airspace navigation infrastructure to enable Performance-based Navigation (PBN) as part of the satellite-based Next Generation Air Transportation System (NextGen).

The agency said it plans to transition from defining airways, routes, and procedures using VHF Omni-directional Range (VOR) and other legacy navigation aides to a national airspace system based on Area Navigation (RNAV) everywhere and Required Navigation Performance (RNP) where beneficial.

"Many NextGen benefits depend on PBN, specifically RNAV and RNP routes, arrivals, departures, instrument approaches and other procedures to increase capacity and efficiency, and reduce aircraft noise and emissions while enhancing safety. All these operations are enabled primarily by the Global Positioning System (GPS) and the Wide Area Augmentation System (WAAS)," FAA explained in its Dec. 15 notice.

FAA said it is committed to maintaining the highest levels of safety, capacity, and efficiency in the National Airspace System while transitioning to a perform-

*(Continued on p. 184)*

## In This Issue...

**Part 161 ...** East Hampton, NY, will be the first airport proprietor in the U.S. to try to impose a mandatory nighttime noise restriction on helicopters through the FAA's Part 161 process - p. 181

**NextGen ...** FAA seeks comment on the proposed transition of the national airspace navigation infrastructure to enable PBN- p. 181

**... Booz Allen selected to help develop NextGen Environmental Management System - p. 183**

**Winglets ...** Airbus sues Boeing affiliate Aviation Partners seeking to invalidate its winglet patent - p. 183

**Mesa Gateway ...** Airport growth prompts need to update Part 150 study - p. 183

**News Briefs ...** Kevin Welsh, previously of Airlines for America, joins FAA's Office of Environment and Energy ... Martin County Airport's noise maps are approved - p. 184

## ***Helicopters, from p. 181***

reasonableness in addition to Part 161 regulations (17 ANR 66). That gives the agency two lines of attack against noise restrictions on Stage 2 aircraft.

East Hampton will soon begin a cost-effectiveness study to support its restriction on nighttime helicopter regulations, Kirsch, a partner in the Denver law firm Kaplan Kirsch & Rockwell, told ANR.

He did not specify at this point the details of the restriction the town will propose nor what consulting firm would prepare the cost-effectiveness study. But he did note that the problem with helicopter noise occurs mainly on Friday and Sunday evenings. That is when helicopters ferry wealthy riders from Manhattan to homes in the Hamptons on Long Island for weekend vacations.

For Stage 2 aircraft, the Part 161 regulations require only that airport proprietors prepare an analysis of the anticipated costs and benefits of the proposed restriction and provide proper public notice, said Kirsch. Part 161 did not change the legal standards that restrictions on Stage 2 aircraft must meet, he added. They are the same as the constitutional standards set prior to ANCA.

### **Push To Do Something**

Helicopter noise problems have eclipsed those caused by fixed-wing aircraft, Kirsch said. He noted that federal legislators from California, New York, and Florida are pushing FAA to do something about noise from helicopter operations.

Helicopters operate in wealthier communities and have become a scourge in Los Angeles, he said. Their operations frustrate airports and communities alike because the tools used in the past to address noise from fixed-wing aircraft don't work with helicopters. Helicopter routes and operations are much less regulated than those of fixed-wing aircraft, Kirsch explained.

A few years ago, the FAA proposed mandatory routes for helicopters flying from Manhattan to eastern Long Island but the community did not receive them well nor did helicopter operators and the rule is in limbo. "It illustrates the fact that FAA recognizes the need for solutions but is not especially creative at coming up with them," he told ANR.

FAA is not good at analyzing helicopter noise and does not have good helicopter noise metrics, Kirsch said. That raises the question of what consultants will have to do to prepare a Part 161 cost-effectiveness study to support a helicopter restriction at East Hampton. Do you do monitoring? he asked. Are flight tracks the issue? What metrics do you use to assess helicopter noise? Kirsch said he does not know the answer to these questions. "We know what does not work but not what does work," he added.

But the political pressure to do something about helicopter noise feels like it did when Congress passed ANCA in 1990, Kirsch told ANR. ANCA directed the FAA to promulgate its Part 161 regulations.

East Hampton wants to be a leader in showing that mean-

ingful restrictions on helicopters can be imposed in a way that does not kill the airport or the community, Kirsch asserted.

### **Two Roiling Issues Joined**

This is an interesting matter, he said, because it joins two roiling issues: helicopter noise and the question of whether airports gain substantial advantage by not being obligated to FAA through grant assurances.

The question of whether to take FAA grant money has become a very hot political issue in East Hampton.

The attorney for the 350-member East Hampton Committee to Stop Airport Expansion, asserts that East Hampton would be free to restrict helicopter operations at its airport if it lets current grant agreements with FAA expire. Kirsch said that letting grant agreements expire helps a lot if the goal is to close an airport but that is not the goal of the Town of East Hampton or the community.

The Committee to Stop Airport Expansion contends that a decision by the U.S. Court of Appeals for the Second Circuit in 1998 in *National Helicopter Corp. of America v. New York City et al* (137 F3d 81), is germane to the helicopter noise problem at East Hampton.

In that case, the Second Circuit upheld some restrictions on helicopter operations at the 43rd Street Heliport in New York City and struck others down while never mentioning ANCA.

Because the court was silent on ANCA, one theory is that it did not consider the 43rd Street Heliport to be grant-obligated, Kirsch said, adding there is some support for the theory but the Second Circuit's ruling is the only one to suggest it.

The Committee to Stop Airport Expansion is arguing that, in light of the Second Circuit's ruling, if the town stops taking FAA grants and comes out from under grant obligations in the future, then it is free to impose restrictions on helicopters.

That may be right or wrong, Kirsch said. But, he stressed, the town does not have to give up FAA grants, which it needs, to restrict helicopter operations.

At the town's request, Kirsch recently drew up a list of 44 noise mitigation measures that airports that are grant-obligated have taken to restrict noise. He said he did this to demonstrate to the community that there are steps that can be taken to address helicopter noise even if the airport accepts FAA grants.

### **Interesting Precedents Could Be Set**

Looking ahead to the process of imposing a helicopter noise restriction at East Hampton Airport, Kirsch said, "The process could set a lot of interesting precedents. The Town of East Hampton is committed to demonstrating to the community that it wants to take FAA money and show that the airport can be community-sensitive. It does not have to be one or the other."

The Committee to Stop Airport Expansion lost its attempt to get a state Supreme Court judge to issue a temporary re-

straining order to block the East Hampton Town Board from acting on its recent decision to seek an FAA grant to fund construction of a deer fence at the airport. East Hampton attorney Jeffrey Bragman, who represents the Committee, told the judge that the Town Board's decision would end any hope for local control over the airport.

East Hampton issued a press release stating that the judge's decision "clears the way for the town to end the 22-year controversy on how to properly maintain a safe and quiet airport for the benefit of East Hampton."

### *Litigation*

## **AIRBUS SUES API INC. SEEKING TO INVALIDATE WINGLET PATENT**

European aircraft manufacturer Airbus filed a lawsuit against Seattle-based Boeing affiliate Aviation Partners Inc. (API) on Dec. 1 challenging its patent on blended winglets, which are used to cut aircraft fuel burn and reduce emissions, engine drag, and noise.

Airbus explained in its litigation, filed in U.S. District Court for the Western District of Texas, that API is claiming that the Airbus winglet design falls within the API Blended Winglet patent and is demanding royalty payments from Airbus for patent infringement.

Airbus asserted that its winglets do not infringe on the API patent and asked the court to declare the API infringement claim invalid. "For decades, Airbus has been developing and marketing wing tip devices that reduce drag and improve aircraft performance on various Airbus aircraft," the company told the court.

Airbus asked for a quick resolution of the case, contending that the royalty demands place it at a competitive disadvantage.

In a Dec. 7 statement, Joe Clark, founder and CEO of Aviation Partners, said, "We are certainly surprised by the lawsuit attempting to invalidate our patent on Blended Winglets after working closely with Airbus over the past five years. We have had many meetings with their engineering group and top executives, both in America and Europe.

"We have built and flown patented Blended Winglets on the Airbus A320 in Toulouse. We have flown them on one of JetBlue's A320s using JetBlue flight crews with excellent results achieved – a 5 percent fuel savings – all of this with the cooperation of Airbus.

"What I can tell you is that we will vigorously protect our patented technology and intellectual property, which is currently saving the world billions of gallons of fuel on Boeing, Dassault, Hawker, and Gulfstream airplanes.

"This is all about efficiency. We want to get our Blended Winglet technology on as many airplanes as possible to save as much fuel as possible. We are just trying to do our part in a changing world."

Aviation Partners, Inc. said it is the world leader in ad-

vanced Winglet technology.

API said its patented Blended Winglets have been designed and certified for a number of commercial and business aircraft; applications include Boeing, Dassault, Hawker, and Gulfstream airframes.

### *NextGen*

## **BOOZ ALLEN AWARDED \$9.7 M CONTRACT TO HELP DEVELOP EMS**

Booz Allen Hamilton announced Dec. 7 that it has been awarded a competitive \$9.7 million task order to support the U.S. Department of Transportation Volpe National Transportation Systems Center in the development of the Federal Aviation Administration's Next Generation Air Transportation System Environmental Management System (EMS).

Under the terms of the task order, Booz Allen will continue to partner with the Volpe Center in delivering innovative environmental solutions to reduce aviation's impact to the environment.

"Overcoming aviation's environmental challenges requires the cooperation of diverse stakeholders including airports, airlines, manufacturers, regulators, policy-makers, NGOs, and passengers" said Booz Allen Senior Vice President Doug Lane.

"Booz Allen's FAA experts specialize in addressing the complex system-wide stakeholder relationships that are key to helping the FAA accomplish its NextGen implementation and integration objectives."

Booz Allen will support the Volpe Center and the FAA in developing and implementing an EMS framework that is flexible, information driven, adaptive and efficient. The EMS framework will be a catalyst for stakeholder cooperation and help ensure that environmental protection is built into the operational aspects of NextGen.

### *Mesa Gateway Airport*

## **AIRPORT GROWTH PROMPTS NEEDS TO UPDATE PART 150 STUDY**

Asserting that Phoenix-Mesa Gateway Airport is the fastest growing passenger hub in the U.S. with burgeoning residential growth near it, airport officials are asking the Federal Aviation Administration to fund an update to the airport's current Part 150 Airport Noise Compatibility Program study, which was completed in 1999.

However, the FAA has not yet made a commitment to fund the update, according to Brian Sexton, the airport's Public Information Officer. The update is expected to occur in 2013 or 2014.

To meet the projected growth in airport operations, there are plans to expand one of our three runways by a couple

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thousand feet in the future, Sexton told ARN. However, he added, there is not a date set yet or that construction because several triggers need to be met before it can take place (expanded passenger service being one).

The airport also plans to build a new terminal building when passenger service demands it – most likely in five or more years, he said.

In September, the airport announced that FAA funds had been released to begin design and construction of the fifth expansion of the passenger terminal in the past four years. Two additional gates will be added under the expansion, bringing the total number of gates to 10 when the work is completed in late 2013.

### *NextGen, from p. 181*

ance-based system that will provide flexible point-to-point navigation enable by geospatial positioning, navigation, and timing infrastructure and aircraft advanced navigation systems.

Comments on the FAA notice must be received on or before March 7, 2012. Comments should reference Docket No. FAA-2011-1082 and can be submitted via the Federal Rulemaking Portal at <http://www.regulations.gov> and follow the online instructions for sending comments.

For further information, contact Greg Joyner in FAA's Navigation Services; tel: (202) 493-5721.

The FAA's Federal Register notice is available online at <http://www.gpo.gov:80/fdsys/pkg/FR-2011-12-15/pdf/2011-31451.pdf>.

### *In Brief...*

#### **Welsh Joins FAA**

Kevin Welsh, previously at Airlines for America in the Environmental Affairs group, recently joined FAA as Senior International Advisor in the Office of Environment and Energy.

He will focus on a range of international environmental issues at FAA, including noise certification and implementation of the ICAO Balanced Approach.

#### **Martin County Noise Map Approved**

The FAA announced Dec.16 that the Noise Exposure Maps submitted by the Martin County Board of County Commissioners for Martin County Airport in Stuart, FL, meet applicable federal requirements.

For further information, contact Allan Nagy in FAA's Orlando Airports District Office; tel: (407) 812-6331, ext: 130.

## AIRPORT NOISE REPORT

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# Airport Noise Report



A weekly update on litigation, regulations, and technological developments

Volume 24, Number 1

January 13, 2012

## Europe

### EC PROPOSAL REQUIRES EVIDENCE-DRIVEN DECISIONS ON AIRPORT NOISE RESTRICTIONS

The European Commission in December issued a proposed regulation intended to make the decision-making process European airports use to impose noise restrictions more transparent and the restrictions they select the most cost-effective.

The proposed regulation gives the EC “a scrutiny role” on new aircraft noise measures. “The aim is to ensure that decisions on restrictions on noise are duly justified, are taken in a transparent way, and are evidence-driven,” the EC explained. It said it only would have a right to review proposed noise rules and “will not substitute the Member State’s decision.”

The EC proposal also would allow airport authorities to more easily phase out the very noisiest aircraft in airline fleets (called “marginally compliant aircraft”), which the EC said account for a disproportionate amount of noise nuisance.

Such aircraft are defined in the EC’s proposed regulation as those that meet International Civil Aviation Organization (ICAO) Chapter 3 noise standards by a cumulative margin of less than 10 EPNdB.

The EC’s proposal would rescind an earlier 2002 Directive adopted to resolve a  
(Continued on p. 2)

## Charlotte-Douglas Int’l

### 48 RESIDENTS FILE LAWSUIT CLAIMING NEW RUNWAY NOISE LOWERED HOME VALUES

Some 48 residents in the path of a new runway at Charlotte-Douglas International Airport filed lawsuits in Mecklenberg County, NC, Superior Court against the City of Charlotte on Jan. 5 claiming that aircraft noise has decreased the value of their homes.

ANR obtained one of the lawsuits. It assert that, since a new 9,000-foot runway opened in February 2010, the plaintiffs have experienced a substantial increase in the frequency and number of airplane flights and that has impacted or completely deprived them of their ability to sell their property at fair market value.

It also alleges that the City has taken a permanent and perpetual avigation easement over their property without paying just compensation and contends that aircraft are approaching and departing the airport at altitudes of 300 to 1,200 feet above their home.

The City’s actions constitute an unlawful taking, the plaintiffs assert, and seek just compensation in an amount to be determined at trial by jury.

Some 40 of the homeowners suing the city live south of the runway and eight live to the north. It is not clear if the litigants live within the airport’s noise mitiga-

(Continued on p. 4)

## In This Issue...

**Europe ...** The EC proposes a regulation that will require airports to select the most cost-effective noise restrictions and follow a more transparent decision-making process - p. 1

**Charlotte-Douglas Int’l ...** Some 48 homeowners file lawsuits claiming noise from new runway has decreased their home values - p. 1

**Technology ...** Flight planning service is first to add Standardized Airport Noise Abatement Procedures to suite of services - p. 12

**Part 150 Program ...** FAA approves all 12 measures in program for Kona Int’l Airport in Hawaii - p. 3

**News Briefs ...** Inglewood seeks consultant for RSIP ... Albany International Airport noise maps approved ... Berman to meet with HAI to discuss his legislation to restrict helicopter operations over L.A. ... Residents near new Frankfurt runway angry over noise impact - p. 4

*Europe, from p. 1*

dispute between the United States and the EC over its attempt to bar hushkitted aircraft from operating at European airports.

That earlier Directive was based on the so-called “Balanced Approach” adopted by ICAO, which is a method under which the range of available measures to address aircraft noise – reduction of noise at the source, land-use planning, operational procedures, and operating restrictions – must be considered and only the most cost-effective measures selected. In essence, the Balanced Approach requires that operating restrictions be considered only as a last resort.

The current proposed regulation “aims to apply noise-related operating restrictions of the Balanced Approach in the EU in a consistent manner, which should greatly reduce the risk of international disputes in the event that third country carriers are impacted by noise abatement measures at airports in the European Union,” the EC said.

It explained that its 2002 Directive led to more harmonized procedures but “the quality of decision-making still requires improvement in order to achieve the most cost-effective solution for each noise situation, on an airport by airport basis.”

The EC’s current proposal stipulates that Member States would have to do the following in managing aircraft noise:

- Assess the noise situation at an individual airport;
- Define the environmental noise abatement objective;
- Identify measures available to reduce the noise impact;
- Evaluate the likely cost-effectiveness of the available measures;
- Select the measures;
- Consult the stakeholders in a transparent way on the intended actions;
- Decide on the measures and provide for sufficient notification;
- Implement the measures; and
- Provide for dispute resolution.

When taking a noise-related action, Member States must consider the following combination of available measures “with a view to determining the cost-effective combination of measures”:

- The foreseeable effect of a reduction of aircraft noise at the source;
- Land-use planning and management;
- Noise abatement operational procedures;
- Not as a first resort, operating restrictions.

“The available measures considered may include the withdrawal of marginally complaint aircraft, if so deemed necessary,” the proposed regulation states.

The proposal notes that, “while a cost-benefit analysis provides an indication of the total economic welfare effects by comparing all costs and benefits, a cost-effectiveness assessment focuses on achieving a given objective in the most cost-effective way, requiring a comparison of only the costs.”

“Decisions on cutting noise levels have to balance protection for citizens living close to airports against the needs of

those who wish to travel,” the EC said. “Decisions must be taken in line with guidelines set at international level (by ICAO). Residents are entitled to be protected from excess noise from airports but it is necessary to take into account costs in terms of lost capacity and the impact on economic growth in a region.”

The Commission’s proposals must be approved by the European Parliament and Member State Governments before being adopted. That is not expected to happen until late 2013.

The EC’s noise regulation proposal was part of a broader package of measures to help increase the capacity of Europe’s airports, reduce delays and improve the quality of services offered to passengers. The measures address the quality of services passengers and airlines receive on the ground before they take off and after they land (for example, baggage handling, check-in, refueling), as well as the efficiency of the complex network of take-off and landing slots that make up every journey.

Vice President Siim Kallas, European Commissioner responsible for Transport said: ‘Europe’s airports are facing a capacity crunch. If business and the travelling public are to take best advantage of the air network, we have to act now. 70% of all delays to flights are already caused by problems on the ground not in the air. On present trends, nineteen key European airports will be full to bursting by 2030. The resulting congestion could mean delays for half of all flights across the network. The status quo is not an option for airports in Europe. Faced with intense global competition, if we do not change the way we do business, we may not be doing business at all.’

The EC’s proposed noise regulation is available at [http://ec.europa.eu/transport/air/environment/aircraft\\_noise\\_en.htm](http://ec.europa.eu/transport/air/environment/aircraft_noise_en.htm)

*Technology***FLIGHT PLANNING SERVICE IS FIRST TO ADD NOISE PROCEDURES**

ARINC Direct announced Jan. 9 that it has added standardized Airport Noise Abatement Procedures to its product suite for flight planning under an agreement with FlightRisk(R) and Whispertrack, LLC.

ARINC Direct said it is the first flight planning service to provide this valuable data as standard information for its operators.

Launched in April of 2003, ARINC Direct Business Aviation Solutions provides a range of support services for over 2,000 private jets. A state-of-the-art Operations Center in Annapolis, MD, is staffed by round-the-clock flight coordinators.

“Before today, our customers were only able to find the correct noise abatement procedures by searching on individual airport websites,” says Gary Gambarani, Director, ARINC

Direct. "The airport noise abatement procedures are often difficult to find, and they can appear in many different formats."

By providing these procedures in its flight-planning suite, ARINC Direct minimizes operators' need to search for the information, and greatly simplifies their planning tasks.

Noise abatement procedures for more than 22 North American airports (including Teterboro Airport, Oakland International Airport, and Santa Monica Airport) are now available, with additional airports continuously being added, ARINC said.

Whispertrack's service, launched in March 2011, provides the only centralized and standardized source of airport noise abatement procedures (23 ANR 37). Airports use Whispertrack tools to create and manage their individual noise abatement diagrams and procedures.

Getting flight planning services to include the airport noise abatement procedures that Whispertrack provides will be key to the company's success.

As the provider of operational risk assessment services for ARINC Direct, FlightRisk facilitates seamless access to these airport procedures by integrating Whispertrack's Whisperplates TM into its service. ARINC Direct provides a database connection to import the information into customer flight plans.

"Innovative solutions like this enable ARINC Direct customers to operate more efficiently and effectively, and that makes us a leader in the industry," added Gambarani.

### **Part 150 Program**

## **FAA APPROVES PART 150 PROGRAM FOR KONA HAWAII INT'L AIRPORT**

The Federal Aviation Administration announced its approval of the Part 150 Airport Noise Compatibility Program for Kona International Airport in Kehole, Hawaii, on Dec. 20, 2011.

Approval was granted for one Noise Abatement Element, eight Land Use Management Elements and three Program Management Elements.

The approved measures included:

- A pilot education program;
- Maintain an established communication process between Hawaii Department of Transportation Airports Division (DOT-A), Hawaii County, and Hawaii State Land Use Commission for the review of proposed development near the airport;
- DOT-A to encourage Hawaii County to revise the Environmental Quality Section of Hawaii County General Plan to include additional policies related to airport land use compatibility;
- Establish an Airport Influence Area for Kona International Airport to define the area that land use compatibility policies would apply;
- DOT-A to encourage Hawaii County to adopt an airport

compatibility checklist for discretionary review of projects within its vicinity;

- Maintain compatible zoning designations within the 2013 60 DNL noise contour;
- Require the dedication of noise and aviation easements through the subdivision approval process;
- Adopt fair disclosure regulations to notify property owners of the noise generated by aircraft operations;
- Adopt an airport noise overlay zone;
- Monitor implementation of the Part 150 Noise Compatibility Program;
- Update the Noise Exposure Maps and Noise Compatibility Programs as necessary; and
- Acquire and implement a noise monitoring system.

For further information, contact Gordon Wong, and environmental protection specialist in FAA's Honolulu Airports District Office; tel: (808) 541-1232.

### *In Brief...*

#### **Inglewood Seeks Consultant for RSIP**

The City of Inglewood invites interested consultants to submit Statements of Qualifications and Proposals for services related to the City's Residential Sound Insulation Program (RSIP).

The Program operates under Federal Aviation Administration (FAA) Part 150 Airport Noise Compatibility Planning and Los Angeles World Airports (LAWA) guidelines. All services required for this program must be in accordance with all applicable Federal, State and local laws, statutes, ordinances, orders, rules, regulations and policies for aircraft noise compatibility programs.

The selected consultant will be responsible for providing acoustic design services, construction documents, pre- and post-construction noise audits and final project reports as well as services as outlined in the Scope of Professional services for up to 1,000 dwelling units. These include single family, multi-family and condominium units.

Qualified consultants are requested to submit seven (7) copies of their Proposal for Professional Services for Residential Sound Insulation in the City of Inglewood to: Michael F. Calzada, RSI Director, City of Inglewood, One Manchester Blvd., Inglewood, CA 90301.

The submittals must be received on or before, but not later than, Tuesday, March 20, 2012, 4:00 p.m. A pre-proposal meeting will be held on Wednesday, February 1, 2012, 2:30 p.m. at Inglewood City Hall, Community Room A. Telegraphic, telephonic or facsimile (FAX) responses will not be accepted.

A copy of the RFQ/RFP is available by visiting the City of Inglewood Residential Sound Insulation Program webpage: [www.cityofinglewood.org](http://www.cityofinglewood.org). Questions should be directed to Maria Torres at (310) 412-5289.

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### Albany County Noise Maps Approved

The Federal Aviation Administration announced Jan. 6 that updated noise exposure maps submitted by the Albany County Airport Authority for Albany International Airport are in compliance with federal requirements.

For further information, contact Suki Gill, an environmental specialist in FAA's New York Airports District Office; tel: (516) 227-3815.

### Berman to Meet with HAI

At a Jan. 4 meeting with residents of Sherman Oaks, CA, Rep. Howard Berman (D-CA) said he would soon be meeting with various parties, including the Helicopter Association International, that would be affected by legislation he introduced in July, 2011, H.R. 2677: L.A. Residentail Helicopter Noise Relief Act of 2011.

His bill would direct the Federal Aviation Administration Administrator to issue regulations to reduce helicopter noise pollution in residential areas of Los Angeles County.

Berman told the audience cheering his legislation that there is no federal agency that oversees the operation of helicopters.

### Frankfurt Residents Demonstrating over New Runway

The German publication *Spiegel Online* reported in late December that lawmakers in the German state of Hesse have apparently underestimated the noise impact from a new runway at Frankfurt Airport that opened in late October 2011,

Every Monday, residents impacted by the noise demonstrate at the airport, sometimes angrily marching through the terminal with drums and whistles. Estimates range from 3,000 to 5,000 people participating in the demonstrations.

*Spiegel Online* reported that the governor of the state of Hesse met with aviation experts to see if it was possible to achieve a significant reduction in noise in the vicinity of the airport in the foreseeable future. He was told it was not.

Meanwhile, in March Germany's Federal Administrative Court will consider an appeal by the state of Hesse of a lower court ruling upholding a total ban on night flights. Lufthansa wants an exception to it.

### Litigation, from p. 1 \_\_\_\_\_

tion area, the *Charlotte Observer* reported.

The airport has sound-insulated 1,200 homes and bought 40 others since 1990. The airport had no comment on the lawsuit.

One of the cases is *Edward T. Moore and Shirley A. Moore v. City of Charlotte, et al* (No. 12-CVS-147).

## AIRPORT NOISE REPORT

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# Airport Noise Report



A weekly update on litigation, regulations, and technological developments

Volume 24, Number 2

January 20, 2012

## *Flight Tracking*

### **GA COMMUNITY FORCES FAA TO RESCIND POLICY CHANGE ON BLOCKING FLIGHT PATHS**

With help from a bi-partisan coalition of 26 senators on Capitol Hill, the general aviation community has forced the Federal Aviation Administration to rescind a policy change that made it much more difficult for operators of GA aircraft to block their flight tracks from public-access flight tracking displays.

The FAA was forced to withdraw its policy after the Senate coalition added to an appropriations bill funding the Department of Transportation through fiscal year 2012 language that bars FAA from expending any funds to stop GA operators from requesting that their flight information be blocked. The bill was signed into law last November by President Obama.

Dan Frazee, director of Airport Noise Mitigation at San Diego International Airport, said he was disappointed by the policy rescission. Not allowing GA aircraft operators to block their flight paths would have allowed for more accurate accountability for airports with noise restrictions, provided a more complete picture of airport operational traffic, and addressed residents' desire for transparency, he told ANR.

*(Continued on p. 6)*

## *Legislation*

### **COMPANION TO HOUSE L.A. HELICOPTER NOISE RELIEF BILL INTRODUCED IN SENATE**

California Sens. Dianne Feinstein (D) and Barbara Boxer (D) introduced legislation in December directing the Federal Aviation Administration to issue regulations setting flight paths and altitudes for helicopter operations over Los Angeles.

Their "Los Angeles Residential Helicopter Noise Relief Act of 2011" (S. 2019) is a companion to similar legislation (H.R. 2677) introduced in the House in July 2011 by Rep. Howard Berman (D-CA) (23 ANR 97).

However, unlike Berman's bill, which would give the FAA only one year to issue the regulations, the Senate bill would provide three years.

Also, the Senate bill includes a provision not included in the House bill that would require the FAA Administrator to "make reasonable efforts" to consult with local communities and local helicopter operators in order to develop regulations that meet the needs of local communities, helicopter operators, and the FAA.

The Feinstein/Boxer bill was referred to the Senate Commerce Committee.

Sen. Charles Schumer (D-NY) successfully added a floor amendment to the FAA reauthorization bill passed by the Senate in February 2011 that would require the FAA to enact standards to measure helicopter noise and regulations to control

*(Continued on p. 7)*

## *In This Issue...*

***Flight Tracking*** ... The general aviation community, with the aid of a bipartisan coalition of 26 senators, forces the FAA to rescind a policy change made last June that made it much more difficult for operators of GA aircraft and on-demand air charter aircraft to continue their years-long practice of blocking their aircraft flight tracks on public-access flight track displays. San Diego Int'l Airport's Dan Frazee says airports need the data to maintain their credibility with the community - p. 5

***Helicopters*** ... California's senators introduce companion legislation to a House bill that would require FAA to regulate helicopter flight paths and altitudes over Los Angeles - p. 5

***News Briefs*** ... Phoenix Aviation Department to soon issue RFQ for noise exposure map update services ... FAA or somebody needs to determine what aircraft fall under EU 'marginally-compliant' definition, Tovar says - p. 8

## ***Flight Tracks, from p. 5***

“For many years, general aviation operators have had the ability to arbitrarily block (erase) their aircraft’s flight track from airport noise and operations monitoring systems and public-access flight tracking displays,” Frazee said. “This practice frustrates community residents who experience an annoying, loud, or low aircraft over flight of their property and can discover no corroborating data to support their complaint. It also impugns the credibility of airport noise offices in the community’s eyes when their equipment indicates an aircraft noise event without a confirming flight track.”

Frazee has asked the Airports Council International – North America and the California Airports Commission to investigate the FAA’s policy rescission and hopes that airports will urge the agency to reinstate it. He said several other airport noise officers share his concerns.

### **Policy Change Withdrawn**

In light of the funding prohibition imposed by the Senate coalition, the FAA announced on Dec. 16, 2011, that it was withdrawing the policy change it had made only six months earlier that required owners or operators of GA aircraft and on-demand air charter aircraft to submit a Certified Security Concern in order to have their aircraft blocked from view on public-access flight-tracking displays.

FAA said that, at the end of fiscal 2012 – when the funding prohibition added by the Senate coalition expires – it will not reinstate the policy change. Instead, the agency said that in “early 2012” it will propose and solicit comments on procedures for all aircraft owners and operators to request that the FAA block their aircraft data from the FAA’s Access to Aircraft Situation Display to Industry (ASDI) data feed.

The ASDI data feed includes position (latitude and longitude) of aircraft, the aircraft’s call sign, airspeed, altitude, heading, and flight plan information, including origination and destination airports. The information allows tracking of individual flights through the conclusion of each flight.

When FAA put its policy change into affect in June 2011, it asserted that the federal Privacy Act does not protect GA and on-demand air charter operators from public knowledge of their flight information and that the agency would no longer accommodate requests by GA operators to have their flight tracks blocked out of their generalized security concerns or privacy interests.

Rather, under the FAA’s policy change, GA operators would have had to submit a Certified Security Concern, which the agency said “would be based on either (a) the facts and circumstances establishing a Valid Security Concern (i.e., verifiable threat to a person, property or company, including a threat of death, kidnapping or serious bodily harm against an individual, a recent history of violent terrorist activity in the geographic area in which the transportation is provided, or a threat against a company) or (b) the general aviation aircraft owner or operator satisfying the requirement for a bona fide business-oriented security concern under Treasury Regulation

1.132(m).”

### **GA Community Flexes Muscle**

Pushing back strongly against the FAA’s policy change, the general aviation community flexed its political muscle and enlisted the aid of Sen. Jon Tester (D-MT), a member of the Senate’s General Aviation Caucus.

In July 2011, Tester wrote to Secretary of Transportation Ray LaHood to raise concerns over the FAA’s policy change, which modified a 2006 Memorandum of Agreement for Industry Access to Aircraft Situation Display (ASDI) data and National Airspace System Status Information (NASSI) data.

Giving it political heft, Tester’s letter was signed by 26 fellow senators on both sides of the aisle.

Tester called FAA’s action “a troubling reversal of a decade-old policy put in place to uphold the privacy rights of thousands of Americans.”

“In light of advances of for-profit flight tracking services, Congress included a provision in the 2000 FAA reauthorization bill enabling the Block Aircraft Registration Request (BARR) program. This program provides owners of general aviation aircraft the ability to prevent the public dissemination of their aircraft movements. For reasons of individual security, privacy, and business competitiveness, this program is essential,” Tester wrote.

“Claims have been made that revocation of this program is needed to promote greater transparency. While all Americans support an open and transparent government process, maintaining the BARR program is about the preservation of personal citizens’ right to privacy and has nothing to do with shedding light on our federal government ...”

“If the proposed changes are put in place, anyone with a computer and easily accessible tracking technology can cyber-stalk owners or operators of general aviation aircraft. We also are concerned that this decision sets a dangerous precedent for the ability of government to disseminate the travel information of any citizen regardless of the mode of transportation,” Tester told LaHood.

### **Obama Seeks Openness in Government**

FAA cited several reasons for making its policy change last June, including disclosure and openness requirements set forth in federal law, executive branch directives, and recent court decisions.

In particular, FAA noted President Obama’s 2009 Open Government Memorandum announcing his commitment to “creating an unprecedented level of openness in Government” and the Office of Management and Budget directive implementing the Memorandum, which states that, with respect to information, “the presumption shall be in favor of openness.”

“Under these Executive Branch policies and directives, the FAA cannot retain the default position of concealing information about general aviation aircraft flights on public ASDI data-feeds simply because of generalized privacy or security concerns,” FAA said last June before being forced by

the Senate coalition to drop its policy change.

But the FAA cited two recent court decisions dealing with exemptions to the Freedom of Information Act (FOIA) that informed its policy change and which still might provide an avenue to challenge the blocking of GA aircraft flight tracks.

The first is a 2011 ruling by the U.S. Supreme Court in *Federal Communications Commission (FCC) v. AT&T, Inc.* where the High Court affirmed the FCC's finding that FOIA Exemption 7 does not protect a business' privacy because the term "personal privacy" does not extend to corporations.

In the second case, *National Business Aviation Association (NBAA) v. Federal Aviation Administration*, a Federal district court granted the FAA's summary judgment motion that general aviation aircraft registration numbers are releasable. The court found that they are not protected "commercial" information (under FOIA Exemption 4) when released as historical ASDI website data, that FOIA Exemption 4 does not protect personal information, and that FOIA Exemption 6 does not protect the privacy interests of businesses or corporations.

NBAA argued in the case that the ASDI data release could result in public knowledge of "sensitive negotiations, likely business transactions, or future movement of senior company leadership possibly jeopardizing their security as well as proprietary business information."

But the district court dismissed those concerns, concluding that the public would not be able to determine the identity of the plane's occupants, discover the purpose of the flight, track it in real time, or discern the reasons the aircraft owner had blocked information. The public, with further inquiry and using the registration numbers, could only find the name of the owner who sought to block the information disclosure, the make and model of the aircraft, and flight data, without any narrative.

Nevertheless, NBAA and others in the GA community assert that disclosure of aircraft identification numbers on the ASDI/NASSI data-feeds constitutes an unwarranted invasion of privacy of aircraft owners and operators.

### **Airports Need Flight Tracks**

But San Diego International Airport's Dan Frazee asks, "Why should any general aviation aircraft operator arbitrarily have the ability to hide flight tracks from the public?" The FAA policy change only required that operators who desire to protect their flight track and aircraft identity provide a valid security concern, he said.

Airport noise offices don't need the flight data, just the flight tracks, Frazee stressed. Asked if the lack of flight track data on GA aircraft affected an airport's ability to assess noise impact, he explained that the noise office computer tries to match data from airport noise monitors with flight track data. If there are no tracks for GA flights, it becomes much more difficult to determine if noise at a certain time was caused by an airplane or was background noise.

Frazee said he did not know what percentage of GA operators block their flight information on the ASDI system.

### **Legislation, from p. 5**

helicopter noise pollution in all residential areas throughout the United States within one year of passage. His amendment also would require the FAA to enact regulations regarding helicopter operations in Nassau and Suffolk Counties in New York.

The House and Senate are still negotiating a final version of legislation reauthorizing the programs of the FAA.

Meanwhile, the Town of East Hampton, NY, plans to be the first airport proprietor in the country to attempt to impose a mandatory nighttime noise restriction on helicopter operations under FAA's Part 161 Regulations on Notice and Approval of Airport Noise and Access Restrictions (23 ANR 181).

Denver Attorney Peter Kirsch, who is advising the town on the Part 161 process, told ANR, "We are assembling our team and doing preliminary research and data collection. It may be several weeks or a month before we have anything new to announce."

### **Feinstein/Boxer Statement**

Sens. Feinstein and Boxer said in a statement that their legislation directs the FAA to develop and enforce regulations to control helicopter noise and improve helicopter safety above Los Angeles.

"Every day in Los Angeles County, a steady swarm of media, traffic, tour, paparazzi, film and private commuter helicopters buzz above L.A.'s residential areas. This has reached the point where noise levels are extreme and privacy violated. The number of helicopters creates a noise nuisance and safety hazard for residents on the ground.

"This is an important bill to protect the quality of life in America's second largest city. The air above Los Angeles is polluted with helicopter noise that disrupts the rights of Californians to live in peace and quiet, and Congress has an obligation to reduce the noise and force the FAA to establish some common sense rules," said Senator Feinstein.

"It is critical that the FAA initiate a plan to stop the disruptive level of helicopter noise in Los Angeles neighborhoods," said Senator Boxer.

Downtown Los Angeles has helicopter landing pads on virtually every skyscraper. This summer, Los Angeles residents experienced two consecutive weekends of extreme helicopter noise during the closing of Interstate 405 and the visit by Prince William and Catherine, Duchess of Cambridge. Noise from helicopters above the Hollywood Bowl has been so loud that the symphony had to stop playing.

"One Los Angeles resident told a newspaper that at least five helicopters hovered over her house watching the 405. "The noise was nerve-wracking," she said. "The house was vibrating."

Feinstein added, "To date, FAA leaders have ignored this problem. In fact, FAA has not even tracked noise and annoyance complaints. This bill directs the FAA to take this matter seriously."

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Washington, D.C.

### **Phoenix To Issue RFQ for Noise Map Update Services**

The City of Phoenix Aviation Department expects to issue a Request for Qualifications (RFQ) for Noise Exposure Map Update Services for Phoenix Sky Harbor International Airport.

RFQ documents will be posted at [phoenix.gov/avirfp](http://phoenix.gov/avirfp) in early 2012.

To be notified by email when this RFQ is issued, please email your name, company name, telephone number and the name of this RFQ to [busopps.aviation@phoenix.gov](mailto:busopps.aviation@phoenix.gov).

### **'Marginally Compliant' Planes Under EC Proposal**

The European Commission recently proposed a regulation that will make it easier for European airports to phase out 'marginally compliant' aircraft, which are defined as those that meet ICAO Chapter 3 noise standards by a cumulative margin of less than 10 EPNdB (24 ANR 1).

But the EC did not identify in its proposal what aircraft models fall into the 'marginally compliant' category. So, ANR asked Armando Tovar, noise officer at Raleigh Durham International Airport, if he could identify them. Tovar keeps close track of aircraft noise levels.

Marginally compliant Chapter 3 aircraft, under the EC's definition, means any aircraft that is not Chapter 4 compliant, he said. Using that definition, the list includes both hushkitted airplanes and some airplanes that were built in compliance with Chapter 3 noise requirements.

Hopefully two things will occur soon, Tovar said. "First, FAA or somebody needs to go through the Part 36 [aircraft noise level] database and determine which Stage 3/Chapter 3 airplanes also comply with Stage 4/Chapter 4 certification levels. This action would make more clear which airplanes could be affected by the proposed regulations.

"Second, Boeing may need to develop an acoustic upgrade for the 767 and maybe the 747-400 to make them Stage 4/Chapter 4 compliant. The acoustic upgrade kit typically includes the addition of chevrons on the tailpipe and additional acoustical absorbing material in front of or behind the engines."

Boeing aircraft 'marginally compliant' under the EC proposal include the 737-300, -400, and -500; 747-100 and -200; and 767-200 and -300, Tovar said. He was uncertain if the 747-300 and 767-400 were.

The Airbus A321 fits the 'marginally compliant' definition but a Chapter 4 acoustic upgrade kit exists for it, Tovar told ANR. A Chapter 4 hushkit also exists for the MD-81, -82, -83, -87, and -88, which meet the definition, he said. The Gulfstream G2 and G3 business jets also are considered 'marginally compliant' under the EC's proposal.

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