



U.S. Department
of Transportation
Federal Aviation
Administration

Northwest Mountain Region
Seattle Airports District Office
1601 Lind Avenue S.W., Suite 250
Renton, Washington 98055-4056

December 12, 2005

Mr. Gregory W. Hauth
President
Save Our Communities
P. O. Box 482
Mukilteo, WA 98275

Dear Mr. Hauth:

Your November 19, 2005, letter, requesting clarification of the Federal Aviation Administration's (FAA) role in Snohomish County's management of its airport, has been forwarded to me for response. My responses to your questions are below. You may find additional information on an airport owner's obligations in FAA Order 5190.6A, Airport Compliance Requirements, Chapter 4.

1. Does the FAA actively force a change in the role of any airports from general aviation to commercial air passenger or air cargo?

While the FAA provides expertise and guidance on growth planning, and compliance with grant assurances to airport sponsors, we do not force an airport to change its role from general aviation to commercial air passenger or air cargo. However, the FAA does have a statutory mandate to ensure that airport owners comply with Federal grant assurances under Title 49 USC subtitle VII, as amended, and surplus real property agreements. In order to receive Federal grant funds, an airport sponsor must agree to make the airport available as an airport for public use, on fair and reasonable terms, and without unjust discrimination, to all types, kinds, and classes of aeronautical activities.

2. Is the FAA a party in community discussions about the future role of a general aviation airport? If not, can Snohomish County proceed to pass ordinances and resolutions without involving the FAA (assuming Snohomish county is aware of grant assurances regarding Paine Field.)? If so, would the FAA participate on a voluntary basis or on a required (regulatory) basis?

During the master planning process, the FAA discusses the future role of the airport with the airport sponsor. At the request of the airport sponsor, the FAA occasionally participates in community discussions about the future role of an airport and may also review and comment on current or proposed ordinances and resolutions. However, our contributions are limited to providing guidance on regulatory requirements surrounding the airport's compliance with its grant assurances. These grant assurances apply to Snohomish County and as the sponsor of the airport, they should take appropriate action to assure that their rights and powers related to the grant assurances are not limited by other local jurisdictions. Snohomish County or other local governments are not required to

necessarily involve the FAA in developing its ordinances and resolutions, however, Snohomish County could be found in non-compliance if they were to approve of any ordinance or resolution that is contrary to their grant assurances.

3. If a commercial carrier asks the FAA to enforce grant assurances, would the FAA require the airport operator (such as Snohomish County) to pay for upgraded facilities, terminals, baggage, parking, road and traffic improvements, and other direct or indirect costs necessary for an air carrier to operate?

The prime obligation of the airport sponsor is to operate the airport for the use and benefit of the public. While the owner is not required to construct or upgrade facilities, it has the obligation to make available suitable areas or space on reasonable terms to those who are willing and otherwise qualified to offer flight services to the public (i.e., air carrier, air taxi, charter, flight training, crop dusting, etc). The airport sponsor has a duty to negotiate in good faith for the lease of such premises as may be available for the conduct of aeronautical services.

4. Is it possible for the airport operator to allow operations on a non-discriminatory basis only if an interested air carrier(s) pay(s) for all such direct and indirect costs necessary to assess, plan, execute, operate and/or compensate the operator for all expenses and liabilities associated with such operations?

Generally, yes. While an airport sponsor must allow all aeronautical users access to the airport on fair and reasonable terms without unjust discrimination, it may make reasonable distinctions among aeronautical users (such as signatory and non-signatory carriers) and assess higher fees on certain categories of aeronautical users based on those distinctions. The allowable rates and charges must be allocated by a transparent, reasonable, and not unjustly discriminatory cost allocation methodology that is applied consistently.

For costs that are not directly attributable to a specific user group the cost allocation methodology cannot require any aeronautical user or user group to pay costs properly allocable to other users or user groups. Indirect costs can only be included in the fees for aeronautical use if the cost allocation formula is consistently applied to other units or cost centers within the control of the airport sponsor.

There are many factors that may impact whether or not a specific rate or charge is allowable. For more detailed information please see the FAA's Final Policy Regarding Airport Rates and Charges published June 21, 1996 in 61 Federal Register 31994.

5. If one or more air carriers ask the FAA to enforce grant assurances of an airport, and the airport operator chooses not to comply, what are the potential penalties for such non-compliance? What are the costs to the operator? Does the FAA have any history on imposing grant assurance enforcement penalties and if so, can you describe what those penalties and circumstances have been?

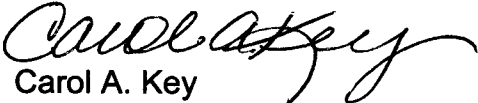
If the FAA determines, after investigation, that an airport is in violation of its grant assurances and the airport sponsor refuses to implement corrective action, the FAA would place the airport in non-compliance and could withhold future federal funding.

Generally, the FAA seeks to obtain voluntary compliance from airport sponsors. However, the FAA has imposed enforcement penalties where the airport sponsor refuses to voluntarily comply with its grant assurances. These cases may be reviewed on the Department of Transportation's Docket Management System at <http://dms.dot.gov/search/searchFormAdvanced.cfm>. All formal complaints of compliance can be found by selecting "Advanced Search" and selecting the following information: At "return matching" select "Dockets"; for "agency" select FAA; for "category" select "non-rulemaking"; and for "subcategory" select "formal complaints". You may limit the search by date.

6. If commercial air service flights commence at Paine Field, for either passenger service or air cargo, can the airport operator impose restrictions on operations, such as type of aircraft that can fly, the frequency of flights or time of day on operations?

Generally, the airport may not impose restrictions on the type of aircraft, the frequency of flights, or the time of day of operations. The exception to this rule is if the restrictions are necessary for the safe and efficient operation of the airport. In such cases, the airport must have concurrence from FAA that the restriction is reasonable. In the event that FAA receives a complaint, Flight Standards and Air Traffic representatives will be consulted and appropriate studies (e.g., airspace, ground safety) may be initiated to determine if the restriction is reasonable and related to the safe and efficient operation of the airport.

Sincerely,


 Carol A. Key
 Supervisor, Washington Section

cc:

Paul Johnson, Seattle Airports District Office
 Matthew Cavanaugh, Manager, Safety and Standards Branch
 Dave Waggoner, Airport Director, Paine Field
 Tom Fitzpatrick, Snohomish County
 Donald L. Doran, Mayor, City of Mukilteo
 Ray Stephanson, Mayor, City of Everett