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“Everyone wants to live near an airport for travel convenience, but nobody wants an airport near where they live.” (Charles Spence, General Aviation News, March 19, 2004)

March 22, 2008

VIA E-MAIL: linda.bruce@faa.gov

[Linda Bruce](#)

Federal Aviation Administration
Denver Airports District Office
26805 E. 68th Avenue Suite 224
Denver, CO 80249

Dear Ms. Bruce:

I am writing to comment on the Centennial Part 150 NCP on behalf of my client, Ramon L. Van Sickle. Mr. Van Sickle owned and operated Indianapolis Terry Airport (TYQ), now known as Indianapolis Executive Airport from 1965, until he sold his airport to Hamilton County, Indiana in 2003. Mr. Van Sickle is legitimately concerned that approval of certain proposed measures will spill over to his airport neighbors and resurrect the noise issues that he successfully mitigated, by **terminating his noise abatement program**. Improper noise mitigation at one airport should not create problems at other and better-managed airports.

Further, as general information, it should be known that at least eight airports of all sizes and types have formally terminated all or parts of their improvement and/or expansion plans because of continued noise issues. And, countless others including Centennial have been stuck in noise quagmires for much longer than ten years, with no end in sight, despite the fact that virtually all of these airports collectively employ every form of noise abatement known to exist and, completed Part 150 NCP's. In virtually all cases, the noise abatement starts with a “voluntary” fly-friendly community appeasement procedure and a community noise forum. Pilot management instead of community management prevails, which directly conflicts with FAR 91.3(a) that by definition reduces safety. (Please see “Trapped in the Middle Ground”)

However, history has now shown that such measures fail to lessen or eliminate community resistance. Instead, the measures escalate and empower those communities to sustain or even increase their resistance. On the other hand, airports that have never employed noise abatement procedures, or did at one time but terminated them, operate with relative freedom and co-exist much better with their communities. Examples are, Los Angeles International, Raleigh-Durham, Ontario International, St. Louis Lambert, Greater Cincinnati/Northern Kentucky International, and of course Indianapolis Executive-most of which make much more noise for more neighbors than Centennial ever will.

Additionally, the FAA has become so concerned about the failure of the noise mitigation process as presently practiced, that the agency has commissioned the Transportation Research Board under the National Academy of Sciences in Washington DC, to develop a Guidebook to Manage Community Attitudes to Aircraft Noise. Ms. Karen Hancock, Airport Noise Coordinator for the City of Aurora, and an active participant in the Centennial Noise issue, chairs the project panel that consists of several others, two representatives from FAA Headquarters, and myself.

Moving to specifics, Mr. Van Sickle has asked me to comment on the following proposed measures pertaining to the Part 150 NCP as follows:

Ban Stage 1 Aircraft

Although NBAA acquiesced to such a ban at Naples as part of their NCP, NBAA has no authority to negotiate deals that could adversely and involuntarily affect an owner, operator or airport that willingly hosts such an aircraft. This is just improper noise mitigation. These aircraft fly with complete freedom at Indianapolis Executive and other airports with no community complaints. Further, these aircraft would unreasonably "load up" at other airports that have done a better job of noise mitigation and penalize their communities for the unjust enrichment of Centennial's communities. Therefore, there is no reason why with proper mitigation, they cannot continue to fly at Centennial. This measure should be disapproved.

Ban Stage 2 Jet Aircraft Under 75,000 lbs. At Night*

Again, for the reasons stated in the Stage 1 ban, this is simply not proper noise mitigation. Additionally, based on accident reports with the NTSB, such a ban, even if "voluntary", amounts to a curfew that could create a safety problem if a flight crew subconsciously or consciously sinks into a "hurry-up mode" in order to "beat the curfew". It has happened before. This safety issue and others that may present themselves do not just disappear if a measure is "Voluntary". Further, the Secretary of Transportation is now on record stating: "There is simply no margin for error when it comes to the safety of our aviation system." This measure should be disapproved. (Please see "Anatomy of a Noise Abatement Accident")

Implement a 010 Degree Departure Heading for Business Jets At Night

Test 24-Hours Flight Tracks Between 350 and 010 Degree Headings

Eliminate Preferential Runway Use Procedure

Implement 170 Degree Departure to 4 DME or 8,000 MSL (+/- 20 degrees)

The intimidation behind the perceived need for the above four measures, even if "voluntary", raises a safety problem for the pilot in command. However, even if the measures are perfectly safe, these all appear to merely be schemes intended to unreasonably shift noise to other communities without the stated concurrence of all potentially affected communities who would receive the noise. I believe Karen Hancock of Aurora has already commented against such shifts. These measures should be disapproved.

Development/Implementation of Fly Quiet Program

As stated previously, the intimidation behind the perceived need for such a program, even if "voluntary", presents a safety problem for the pilot in command that has led to accidents. This should be disapproved.

* To illustrate the unreasonable nature of curfews and improper noise mitigation, a major source of nighttime noise at Centennial is Stage 2 jets that stop to refuel in order to accommodate "Grand fathered" curfews at Van Nuys and Burbank. As part of this mitigation, Centennial should raise this issue with Van Nuys and Burbank. Further, it was never the intent of Congress to knowingly "Grand Father" unreasonable noise mitigation measures. (Please see "Noise from Van Nuys heard across the country", In-Flight Magazine, August, 1998)

Amend Community Plans and Zoning Ordinances

This should be approved. And, airport management should adopt a supplemental real estate disclosure that in addition to a noise exposure map, requires sellers to disclose the problems with aircraft noise and traffic that existing residents have identified through noise complaints and other forms of public comments. Without such additional information, buyers have been misled into believing their property is not impacted. (Please see "What Homebuyers Should Know About Airport Noise")

Update and Establish Environmental/Noise Abatement Liaison/Office

Install Noise Monitoring System and Develop Program

The above two measures should only be approved for land use planning purposes. For reasons of aviation safety, the FAA under Part 150 does not fund the cost of noise monitors used to enforce pre-set noise thresholds. However, the safety matters do not disappear if Centennial pays for them.

Development/Implementation of Fly Quiet Program

As stated previously, the intimidation behind the perceived need for such a program, even if "voluntary", presents a safety problem for the pilot in command. This measure should be disapproved.

Operations Review and Part 150 Updates

This measure should be approved, but only for land use planning purposes. Communities and political leaders should expect more noise from more aircraft in proportion to the success or failure of economic policies.

Establish Follow-up Roundtable/Committee

These forums only insure that the noise issue will go on indefinitely. Further as time wears on, it will become increasingly counter productive to aviation safety, because it will further increase the already inappropriate intimidation burden on the pilot in command. This measure should be disapproved.

To conclude, when Mr. Van Sickle owned and operated TYQ, he faced the same issues that many airports including Centennial face regarding community opposition to aircraft noise. However, instead of bowing to the conventional pressure to impose more and more noise abatement measures, he displayed the management temerity to successfully mitigate the issue informally so that any aircraft in general aviation service can now operate at Indianapolis Executive Airport at all times with no intimidation and its related safety problems, no noise abatement, and no complaints. This means that any and all airports can and should work to achieve the identical result through proper noise mitigation practice. There simply is no excuse to do otherwise. (Please see "The noise, the neighbors", Airport Business, September 2006)

Respectfully Submitted,

Jon Rodgers
Attachments (5)
Cc: Centennial Airport Staff, Ramon L. Van Sickle

Trapped in The Middle Ground

FAA

F.A.R.
91.3(a)

Politics

Noise
Abatement

Bad Publicity
Airport Closure
Things Might Improve

Twilight

Job Loss
Eviction
Fines

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Y**
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▼

Stricter Measures
Appeasement
Peer Pressure

Zone
Acquiescence
Compromise
Balance



◀◀ Pilot in Command

- What's on his mind?
- How low can he sink?
- Will he make the right choice?
- Will he have time to correct the wrong choice?

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How Safe Is Your Pilot? (Excerpt)

By Jon Rodgers ©2004 by Jonathon W. Rodgers

Chapter 2 Anatomy of a Noise Abatement Accident

I did not write this chapter or any part of this book to criticize pilots. On the contrary, I know of no other group of professionals who are more thoroughly and rigorously trained on a continuing basis; required to be physically and mentally fit; and in the case of airline pilots, for safety, required to retire at age 60.

The aviation industry willingly carries an enormous responsibility for the safety of the entire public, whether they travel or not. Nevertheless, you have most likely read about aviation accidents that resulted from faulty maintenance, bogus parts, hijacking (especially 9-11), explosives, improperly shipped hazardous materials, and weather. Following each aviation accident, the FAA and the National Transportation Safety Board announce that they will conduct a thorough investigation and publish their findings. That should happen. The results are used to train other pilots to recognize, avoid and recover from the circumstances that caused the accident. However, there is no training to prevent what happened in the following accident.

What you are about to read is not about an accident involving the above circumstances. Rather, it is about an accident, just as tragic, but fully preventable because none of the above factors were present. Instead, a psychological factor of political intimidation was introduced that interfered with the pilot's judgment. This is brought about by bad politics, the politics of noise abatement.

THE ACCIDENT

Source: AIRLINE PILOT, MARCH 1997

“The Effects of Airport Curfews on Flight Crew Performance”

Capt. Robert L. Sumwalt III

“In August 1987, a Northwest Airlines DC-9-82 crashed after departure from Detroit Metro Airport (DTW); 156 lives were lost in this accident. The National Transportation Safety Board determined that the probable cause of this accident was the ‘flight crew’s failure to use the taxi checklist to ensure that the flaps and slats were extended for takeoff.’

The Board acknowledged that during taxi-out, several factors could have acted upon the crew to cause them to forget to take these critical actions. Among the factors the NTSB noted, ‘The flight was operating behind schedule with the crew facing a curfew problem for their arrival in Santa Ana, Calif. Weather in the local area (Detroit) could have caused further delay if the storm arrived before their departure. The cockpit voice recorder transcript reveals that 4 1/2 minutes before starting engines the cockpit crew engaged in a 2-minute dialogue about the consequences of missing their curfew later that evening.’

Although the crew’s concern over missing the curfew probably did not alone cause them to err, it was probably one additional distraction acting upon the crew as they taxied for departure that evening. A complex accident such as an aviation accident is rarely caused by only one factor, but rather is the culmination of a series of events that allow the formation of an ‘error chain’ which leads to the accident. Generally if just one of these events could be changed, the accident would not happen. In this case, removing the curfew-imposed time constraints might have broken the error chain and prevented the accident.

As long as the ‘front-line operators’ (pilots, mechanics and air traffic controllers) can identify problems and apply timely defenses, an accident does not occur. The flaws remain in the system, however, because attention is generally not brought to the situation.

After all, flights that land at their destinations without bending metal or injuring passengers are not typically investigated. A review of incident data—flights that had problems even though they landed without bending metal or injuring passengers, however, reveal that problems arising from crews rushing to beat curfews are more prevalent than accident data illustrate.

Even though the relative infrequency of aircraft accidents makes them poor tools for gauging safety trends or deficiencies, accidents on record support the hypothesis that curfew-imposed time pressures can cause crews to perform in a less-than optimum fashion.”

This report indicates that the flight crew considered two alternatives:

1. Stay on the ground to let the approaching weather front pass, but violate the curfew, the consequences of which caused them great concern. Or,
2. Hurry up to beat the weather, so they could “beat the curfew” in order to avoid the consequences of a curfew violation.

From all appearances, the flight crew became so intimidated by the potential adverse political consequences of a curfew violation at John Wayne Airport, they felt unable to delay their departure long enough to allow the approaching bad weather front to pass. Consequences could have included adverse publicity from the media and political leaders, stricter noise abatement measures and disciplinary proceedings from Northwest Airlines. It’s doubtful we will ever know.

It is reasonable to deduce that the captain and crew knew better, but fell into a safety vacuum or “Twilight Zone”. The captain, under Federal Aviation Regulations Part 91.3(a) is the pilot in command of the aircraft. He “is directly responsible for, and is the final authority as to, the operation of that aircraft.” Under that authority, he could delay the flight and break the curfew. However, he felt a need to subordinate his authority as pilot in command to accommodate the curfew, a political situation over noise.

Now in the “Twilight Zone”, the captain made the decision for noise abatement. During the ensuing rush to beat the weather in Detroit so he could beat the curfew at John Wayne Airport, he most likely deviated from or overlooked items in the checklist routine or even decided to forego it altogether in the interests of time. Whichever occurred, he failed “to use the taxi checklist to ensure that the flaps and slats were extended for takeoff.”

I have been questioned about my conclusion. My only response is, if you remove the curfew from the scenario, the accident does not happen. He stays on the ground in Detroit and let’s the weather front pass. No hurry, no bother. It’s as simple as that.

For the above reason, I also believe that Orange County, California, who operates the John Wayne Airport, bears the liability, financially and otherwise, to the victims for this accident. What other factor, but intimidation over their curfew, would start the error chain that led to the accident? Strangely, my search of NTSB records indicates that the NTSB did not list the curfew pressure as a contributing cause of the accident.

In the matter of aviation safety, concerns about airport and aircraft security related to terrorism, while much easier to identify and relate to, pale in comparison to safety in noise abatement. Every day, noise abatement intimidates literally thousands of pilots at all levels who now believe they have to subordinate their authority as Pilot-in-Command to accommodate it, even though they know better.

Yet, airports seem proud of their programs and jealously guard their curfews, refusing to review them for safety and reasonableness. They usually insert escape clauses hoping to cover themselves in a procedure such as “consistent with safety,” “safety permitting” or similar wording. However, accidents on record indicate that by the time a pilot recognizes a safety problem, it’s simply too late to avoid a collision, or there is not sufficient altitude to affect a recovery.

This simply is not professional noise mitigation. I have asked the FAA to hold safety seminars to discuss the safety dilemma, but to date they have refused.

Noise from Van Nuys Heard across the Country

In Flight USA

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P.O. Box 620447, Woodside, CA 94062

August 1998

By C. William Clark

VAN NUYS, Calif.—Noise at California's Van Nuys Airport may be causing a headache for more than just local residents, as questions of transferred noise are coming in from as far away as Denver, Colo.

Van Nuys, the busiest general aviation airport in the country, has been in the news for most of this year regarding noise and noise-related rules. While a "non-addition rule" for Stage II aircraft has been postponed pending further review, a curfew on Stage II aircraft has been extended.

On Feb. 12, Los Angeles World Airways

announced that the curfew for Stage II jets exceeding 74 decibels would run from 10 p.m. to 7 a.m., an increase of one hour. Some individuals believe that Stage II unfriendly attitude is just increasing noise elsewhere. Claims are being made that as many as six noise events are being made at other airports across the nation to avoid just one at Van Nuys.

According to reports, jets are taking off 5,000 to 10,000 pounds lighter than usual from Van Nuys before curfew hours and heading to Burbank. They leave Van Nuys light in order to avoid violating weight restrictions at Burbank. Burbank has no curfew on Stage II operations and the jets, if light

enough, can take off later.

Once the jets leave Burbank, they do not have the fuel for the East Coast trip. That forces the jets to put down somewhere mid-continent to take on fuel. One likely stop is Centennial Airport, just outside Denver, Colo.

If carried out, this type of operation would triple noise events. The additional noise would consist of the two noise events at Burbank, two more at Centennial, plus the takeoff from Van Nuys and the East Coast landing.

"All the various airports are coming up with different rules and fragmenting the air transportation system," says George Jerome,

chairman of the Van Nuys Citizens Advisory Council (CAC). "The FAA is going to have to come in and set some up federal regulations, or things will reach a point where planes will take off and not be able to land at other airports."

Jerome received a letter from Englewood, Colo., resident David Wlaschin inquiring about noise originating at Van Nuys. The letter asks Jerome to investigate the issue and come to some conclusion.

"We recently received information that noise abatement measures at the Van Nuys Airport may be causing myself and other residents in the vicinity of Centennial Airport to

Continued On Page 129

Van Nuys

Continued From Page 13

receive what has been termed 'transferred noise,'" writes Wlaschin.

Jerome says the issue has not been addressed and is not on the calendar because the CAC is currently busy trying to gain approval to operate the tower 24 hours per day in light of recent accidents at Van Nuys. Jerome admits, however, that he knows Stage II operators who follow the Van Nuys-Burbank-Centennial-East Coast route to avoid penalties.

Those penalties vary from airport to airport, but can be stiff. Van Nuys imposes fines on violators of \$750 for the first offense, \$1,500 for the second, and \$3,500 plus a possible ban from operation upon the third offense. Los Angeles World Airports reported that between 10 and 12 operators have been cited in the past year and a half.

Fines for violating Burbank's weight curfew start at \$1,000. Centennial has no curfew or restrictions on Stage II operations but is in the process of a Part 150 study to determine noise contours. Restriction-avoiding flights originating from the West Coast would typically put down in Centennial in the early morning.

Jon Rodgers, legislative chairman of the Aircraft Pilots of the Bay Area, has been on the forefront of the transferred noise issue. Rodgers sent a letter to Colorado Congressman Joel Hefley outlining the problem in May.

"In the vein of discriminatory noise transfer, we are writing to inform you that Centennial Airport is one of several airports in the Central region that receive transferred noise events so aircraft can comply with noise management schemes in place at the Van Nuys and Burbank airports in Southern California," states Rodgers. "The companies and their pilots are aware of this and are extremely disturbed with it, but feel intimidated by the management at both airports, who are pandering to a local political constituency."

Rodgers has yet to receive a response to his letter, but thinks that response may be directed at the management of Van Nuys. He sees Centennial residents being punished with

noise because of Los Angeles politics.

Centennial management, however, is not yet sure there is a problem.

"Centennial would be the logical stop," says Kenny Maenpa, of the Operations Department at Centennial. "But I have not heard of anything like that happening."

Burbank was also unaware of any activity that would constitute noise transfer. The airport does not allow operation of heavy Stage II between 10 p.m. and 7 a.m. Gulfstream G-IIs outfitted with a "Hush Kit" are hit with a 47,000-pound restriction, and straight G-IIBs have a maximum weight of 55,500 pounds during curfew hours.

"We are not aware of the problem. But

then again, we have not asked," says Randy Berg, director of operations at Burbank. "Any operation here would be considered a normal event unless it rings the [noise] bell."

Brent Lobner, Los Angeles city attorney and author of the controversial non-addition rule, calls the transferred noise issue bunk. He says there are no restrictions at Van Nuys that would lead to increased noise events at other airports. Lobner says the current curfew is based on fixed noise takeoff levels per an FAA Advisory Circular.

"You're being played," says Lobner. "Transferred noise? I don't see it. We have the sanest type of noise policy here."

Stage IIs exceeding 74db are prohibited

from operating during curfew hours. Van Nuys also maintains a "fly friendly" program that Lobner says is completely voluntary and based on manufacturers' recommendations on flying quiet. Yet many say that an air of intimidation on the part of the airport exists that prevents challenge of "voluntary" airport policies.

But Jerome maintains that jets are leaving Van Nuys before 10 p.m. 5,000 to 10,000 pounds light, flying the six miles to Burbank, and then stopping mid-country for fuel.

"I know at least one operator who does it on a regular basis," says Jerome. "Two different restrictions causing two different departures and two noise events at Denver."

ZIONSVILLE

Airport owner striking back

Tired of complaints, he says buyers should be told that living near the facility can be noisy

By James A. Gillaspay

james.gillaspay@indystar.com

February 15, 2003

Neighbors who oppose expansion of Terry Airport say more air traffic will increase noise and decrease the quality of their lives and the value of their properties.

It's a view that airport owner Ray VanSickle won't contest. But he does reply: This is not his problem, he's tired of being blamed and he's not going to take it anymore.

"They've moved into the domain of the airport, and all they want to do is sit and complain," said VanSickle, who is taking action to alert would-be residents about the airport in advance of the next housing development. "Isn't it time to do some planning?"

In an effort to ward off future complaints, VanSickle is trying to persuade developers, school officials and municipalities to either warn prospective residents of the airfield or do something else with land in the noise-sensitive area south of the airport.

VanSickle has gone to public meetings of county officials and School Board members to make his case. The campaign coincides with plans under way by Estridge Development Co. for a 357-home subdivision named Abbitt Farms.

The project at U.S. 421 and Boone County Road 300 South, which would include a future elementary school, goes before the Boone County Area Plan Commission next month.

"We think it's in the public interest that if Estridge wants to build this place, he has to embark on a disclosure that points out to prospective purchasers the problems that the present residents have," said aviation consultant Jon Rodgers, a noise mitigation specialist hired by VanSickle.

"Those issues primarily deal with increased air traffic and jet traffic in particular -- increased noise from that and, in their opinion, reduced quality of life and reduced property values."

VanSickle has given the Zionsville School Board and the Boone County Commissioners letters from Rodgers to demonstrate his predicament and his opposition to the subdivision if the Estridge plan does not address the airport.

The letters, sent last month to Paul Estridge Jr., suggest that the developer is ignoring potential noise problems in conjunction with

his proposed development. They identify one of the airport's greatest detractors as attorney Frank Hoffman, a nearby resident who has done legal work for Estridge.

Rodgers quotes a comment by Hoffman to the Plan Commission in 2001: "Increased flight activity and the related noise over Austin Oaks will have a significant negative impact on the market value of my home. The continued unmonitored expansion of such a public nuisance and safety hazard causes great concern."

In contrast, VanSickle is concerned that residents don't understand what they're in for when they move into noise sensitive areas beneath approaching aircraft; that they don't realize his facility's expansion is also part of a master plan; and that his plan was adopted by the county long before area farmers began selling land to residential developers.

"It's going to be busier," said VanSickle, who is negotiating a sale of the airport to Hamilton County. "And quite frankly, we just said to Mr. Estridge, we're not going to take those complaints."

Estridge, a seasoned pilot who has flown in and out of Terry Airport hundreds of times, said he doesn't expect any complaints and has no plans to market neighbors' past concerns.

"I was very much aware of the proximity of this land to the airport," said Estridge, whose company has had success building near airfields. "We don't feel it's an issue."

As for Hoffman's stated concerns, Estridge said, he does not agree and would not be willing to invest millions of dollars in Abbitt Farms if he thought otherwise.

Call Star reporter Jim Gillaspay at 1-317-444-2608.

BOONE COUNTY

Board lands in zoning fuss

Airport's owner irritated by stand

By James A. Gillaspy
james.gillaspy@indystar.com
May 17, 2003

Aviation officials guiding Hamilton County's purchase of Terry Airport hope their intervention in a Boone County zoning spat will help establish Hamilton County as a good neighbor.

The privately owned Boone County airport is near Zionsville, where airport owner Raymon VanSickle is trying to resolve complaints of airport noise by making developers adopt higher construction standards and alert prospective homeowners of the noise issue.

But the stand taken by the Hamilton County Aviation Board has alienated VanSickle and the noise mitigation expert he hired to protect airport interests pending the \$4.6 million sale.

"We have the right under federal law to take any reasonable measure to ensure that the airport is protected from any kind of adverse consequence due to noise," said aviation consultant Jon Rodgers, who represents VanSickle and his demands on Estridge Development Co.

"In my mind, it would be negligent for Hamilton County not to take the same precautions that we're trying to take."

The stumbling block in final negotiations emerged after Aviation Board President Larry Jacobi notified Boone County planners of the board's support of Abbitt Farms, a proposed Estridge community on farm land in the southerly flight path to Terry Airport.

Developer Paul Estridge Jr. has applied for rezoning needed to begin construction of the 357-home subdivision at County Road 300 South and Michigan Road.

"What (VanSickle's) asking for isn't what the state statute requires," Estridge said.

To VanSickle's dismay, Jacobi has agreed with Estridge's plan to limit his disclosures to the location of the airport -- and avoid mention of any noise it generates.

Estridge says concerns about noise are unfounded, and that he wouldn't be investing millions of dollars in the development if he wasn't confident of its success.

Despite that investment, Estridge complained at a recent meeting of the



To avoid noise complaints, Terry Airport's owner wants developers to raise construction standards and alert buyers. -- Rich Miller / The Star

Boone Area Plan Commission that VanSickle's demands for noise-reducing construction standards would add \$20,000 to the price of homes there, which are expected to cost more than \$400,000 on average.

"We don't think we're being a good neighbor if we make people pay \$20,000 to \$30,000 more for a house," said Jacobi, a pilot and airport operator in Noblesville.

Jacobi brushed aside any concern over future complaints that may arise as Abbitt Farms and other developments evolve near the expanding airport.

"We'll just deal with them as they come," he said, adding that any upfront disclosure about the airport's existence should be sufficient to ward off potential complainers. "If you're going to buy a house within a mile of an airport, you better like airplanes."

Meanwhile, the Boone Area Plan Commission has postponed a decision on Estridge's rezoning application. Once discussions resume, however, one of the matters to be digested will be the opposition to Abbitt Farms registered by the county planning staff.

Planning Director Steve Niblick has asked the Plan Commission to render an unfavorable recommendation to County Commissioners, in part because of the potential for noise complaints.

Jacobi, who had feared VanSickle's stance hurt Hamilton County's relations with zoning officials, was surprised and delighted to hear of Niblick's position.

"I just assumed that the houses were going to go, and if the houses were going to go, we wanted to be good neighbors," said Jacobi.

"Now, if there's a possibility for the houses not to go . . . I don't have any objection to that whatsoever."

By Jon Rodgers, Jon Rodgers Aviation Consulting

THE NOISE, THE NEIGHBORS

Airports make noise, says this consultant; when successful, they make even more

The goal of noise mitigation, formal or informal, is to quell the disturbance so the complaining community groups will leave the airport and its users alone. But what typically happens? Some airports have formally terminated their improvement and/or expansion plans because community opposition has not diminished, as the airports and users had hoped. Instead, community opposition may increase with even greater intensity, even though — through informal or formal noise mitigation — an airport installs every type of noise abatement procedure known to exist and (in most cases) actually reduces noise. Why then, does this happen?

To learn the answer, consider the beginnings of noise abatement at the first two airports, in California, to design and implement such programs: Torrance (TOA) and Santa Monica (SMO). The goal was not to improve (much less expand) the airports; rather, officials wanted to close them as quickly as possible — they wanted to enact the ultimate noise mitigation measure.

However, FAA would not permit either airport to close, so Torrance and Santa Monica devised and promulgated numerous noise abatement measures and regulations, including curfews and outright bans of certain types of aircraft. The underlying purpose of these measures was not to quiet community complaints or to convince them to accept the airport — far from it. The purpose

was to empower neighborhood communities with more reasons and incentives to complain — and to do so with greater intensity — in the hope that FAA would eventually relent and permit Santa Monica and Torrance to close their airports.

It stands to reason that when other airports decide to promulgate noise abatement programs, thinking it will mollify the community's will to resist and permit improvements or expansion, those programs simply won't achieve the result. Instead, community groups will behave exactly as they did (and still do at Torrance and Santa Monica) where the goal is still to close.

Regarding formal mitigation, every decision from FAA that I've studied, no matter what the decision, meets with resistance from all sides. Community groups feel their complaints are ignored; pilots feel like hostages instead of customers as they're pressured and intimidated to accept unreasonable mitigation measures; political leaders and airport management talk in circles from both sides, because political leaders fear being



Jon Rodgers

voted out of office by constituents and airport management fears being fired if they don't go along. Is it any wonder then, why this problem persists?

SAME PROBLEM, DIFFERENT APPROACHES

There is no law that requires an airport proprietor to reduce noise. However, existing federal case law does permit an airport proprietor to take measures to reduce noise, provided that the measures are reasonable, non-arbitrary, and non-discriminatory. By law, the primary focus of noise mitigation must be on reasonableness, while noise reduction must be secondary.

This approach at Terry Airport (TYQ), now known as Indianapolis Executive, near Indianapolis [see sidebar] showed that all parties can quickly understand and accept the concept of reasonableness, rather than arguing about the alleged benefits of a noise reduction measure, or the amount of noise the airport will make if it improves or expands.

Realizing this, the complaining communities opted to voluntarily terminate their noise issue with Terry Airport on their own volition without FAA involvement. The airport was able to abolish all noise abatement procedures without protest, build a new jet terminal, and realize a 400 percent growth in jet traffic — of which approximately 40 percent is Stage 2. What's more, about 30 percent of the Stage 2 operations are at night after 10 p.m. Yet, no one complains. The entire process was completed in a few short months at proportionately less cost, and offers potential for any airport.

Consider two examples for noise mitigation failure ...

- Livermore Municipal Airport (LVK) in California has tried for several years to extend its runway 25L-7R. All surrounding land use is compatible. Yet, when they initially held hearings, some 200 residents from nearby Pleasanton complained about what they said would be increased noise, etc. In response, the airport advisory commission, comprised of three pilots, enacted a "voluntary" curfew in the hope that the resistance would die out. However, at the next meeting, according to media reports, over 1,000 residents appeared and shouted down the extension, at which point the Livermore City Council formally cancelled the plan.

- Scottsdale Airport (SDL) in Arizona completed a Part 150 NCP, installed a "voluntary" curfew along with numerous other noise abate-

ment procedures, and asks pilots to sign a "good neighbor pledge" on the airport's website. Meanwhile, the city council recently voted 5-2 not to apply for Part 139 certification — intended to launch scheduled commuter service — when over 100 neighbors protested. Adding to the dilemma, the commuter applicants promised to use only Stage 4 aircraft and the city aviation director stated that "scheduled service would likely mean a drop in the number of charter and private flights."

Other airports that have formally altered their plans include Oakland International, San Francisco International, Burbank, Boeing Field, Ohio State University Airport, and Hollywood-Ft. Lauderdale. There are countless others, large and small, urban and rural, whose plans are stalemated because they simply have not been able to overcome noise issues (even when they seem to have every form of noise mitigation measure known to exist).

Worse, their neighbors know all about the problems at other airports and want no part of the same. They want their airport to enact even more noise abatement programs, just on principle. It becomes a vicious circle. Anyone who believes that noise abatement programs make noise issues go away can log onto www.google.com and enter a request for 'airport noise.'

GETTING INFORMAL

Informal mitigation, when executed properly, can terminate a noise issue on its own volition because the mechanism can ensure in open debate that all proposed or in-place noise mitigation measures that are proven reasonable (as required by existing federal case law) are accepted; and those that are proven unreasonable are rejected. The process is completely open; the participants make all the decisions.

To focus the mitigation process on the concept of reasonableness, first make the following assumptions:

- FAA has no leverage in the areas of federal funding or the Surplus

Property Act, and would be powerless to prevent the proprietor from closing the airport.

- A motion to close the airport is the ultimate noise mitigation measure; but as with any other measure, it would have to be proven either reasonable or

*Informal mitigation
can ensure in open debate
that all measures are proven
reasonable.*

unreasonable.

- The airport is a noise-producing entity; is presumed to be a nuisance to the surrounding communities; and all surrounding land use is considered incompatible (greater than 65 DNL).

(Continued on page 16)

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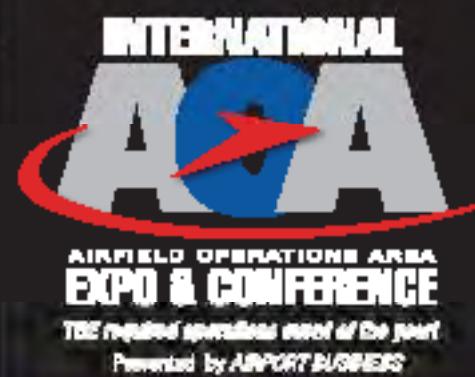
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About the Author

Jon Rodgers is an aviation noise consultant based in Frazier Park, CA, and is preparing a book, *How Safe Is Your Pilot?*, to address concerns related to noise mitigation policies and pilot safety. He is a commercial-rated pilot and CFI, a veteran of the U.S. Marine Corps, and a graduate of San Jose State University. He can be reached at jonrodgers@earthlink.net.

MANAGING AIRPORTS TODAY

(Continued from page 15)

• The airport has no economic value or benefit whatsoever.

Each participant receives the opportunity to propose any measure they deem appropriate, and state their best case for reasonableness or unreasonableness for a consensus by the participants.

FAA has never questioned this process, nor has it led to any form of formal mitigation or litigation, because participants have been 100 percent satisfied with the process and the results. FAA will be required to render any decision within its very narrow standards, procedures, and criteria. These hinge mostly on federal funding issues and the integrated noise model, with little or no regard to reasonableness.

[This approach failed in two federal

court cases: Naples and Van Nuys. In lay terms, the court essentially ruled, and I agree, that there was a noise issue simply because people complained and the integrated noise model failed to address or provide a solution to the complaints. Worse, the noise issues at both airports remain very much alive.]

Informal mitigation is not intended to replace formal mitigation. It supplements it so that airports can successfully complete their improvement or expansion projects, and avoid the long and bitter feuds that handcuff so many projects. The public must be able to air and debate its concerns based upon reasonableness and beyond the limits of noise monitoring, technical analysis, and the integrated noise model.

Case in Point: Terry Airport

For an airport to successfully mitigate noise and maintain safety, communities, environmental activists, and political leaders must understand from the beginning that the airport operates strictly for the benefit of its users, and will make more noise from more airplanes. No airport needs a noise abatement program to succeed.

"Only when we abolished noise abatement, were we able to solve our problem with the community and improve the airport." Ray Van Sickle, proprietor, Indianapolis Terry Airport, today known as Indianapolis Executive, (TYQ); 1965-2003

• The Problem

When neighbors near Indianapolis Terry Airport (TYQ) began to complain, proprietor Ray Van Sickle imposed all the conventional methods of noise abatement.

His hope? That neighbors would leave his airport alone. It didn't work. The more he tried to acquiesce and get along, the more the neighbors complained. They organized and quickly grew in size, financial strength, and political influence.

The low point came when Boone County denied an FBO's request for a permit to build a new hangar. When the FBO said the hangar wouldn't create more noise, nearly 200 neighbors (of a total population of 2,000) attended the hearing with their lawyer to complain about noise, property values, quality of life, and safety. Many neighbors were not new to the area, but had lived near the airport for many years. They just didn't want the airport to change. Listening to the neighbors' complaints, the zoning board blocked the hangar permit and demanded even more noise abatement — simply because other airports did it.

Adding to his problem, Van Sickle wanted to sell TYQ to adjacent Hamilton County so he could retire after 38 years of ownership. He knew the sale wouldn't happen, since Hamilton County wouldn't accept a noise problem, much less one that in spite of his noise abatement program had become more intense.

In the final analysis, the noise abatement program had led airport neighbors to expect the airport to make less noise from less aircraft. From this position, airports cannot improve or expand because neighbors will assume that means more noise from more aircraft.

• The Solution

Van Sickle was forced to mitigate his noise issue in a different way — one that would enable him to eliminate his noise abatement program and encourage unrestricted growth in air traffic, along with the resulting increase in noise, yet eliminate noise complaints from neighbors.

Van Sickle discussed his problem with numerous attorneys and airport consultants, but came away with no idea how to proceed. I explained that we could only succeed if we were truthful about noise. We had to state that the airport will make more noise from more aircraft. Then we had to prove to any and all interested parties in an open and public process, that his present noise abatement program and all proposed measures were in fact unreasonable, arbitrary, or discriminatory, not only at TYQ but also unreasonable at all other airports where such measures were in place. We immediately commenced with the plan through the following steps:

- 1) To generate interest and participation in the public forums, we announced the elimination of the entire noise abatement program.
- 2) We announced that the airport would produce more noise from more aircraft.
- 3) We promulgated a real estate disclosure notice for both existing and new developments, based upon complaints from existing residents.
- 4) We studied each and every noise abatement measure and tested it for reasonableness.
- 5) Since each noise abatement measure failed to measure up to the neighbors' own definition of reasonableness, each was abolished or dropped from consideration.
- 6) We conducted every step of the mitigation process within the confines of the Federal Aviation Regulations, but never sought FAA's direct intervention. All discussions and decisions were made in public.

• The Results

— Boone County granted the building permit for the new hangar, which can house up to ten jet aircraft. Construction was completed shortly thereafter.

— Boone County accepted and approved Van Sickle's new airport master plan that included a runway extension and a new crosswind runway without objection.

— Hamilton County purchased the airport and it operates with no noise abatement.

— The airport is open at all times to any aircraft in general aviation service.

— Jet traffic has increased four fold in the last three years with no complaints.



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