



U.S. Department
of Transportation
**Federal Aviation
Administration**

Oct 30, 1992

Mr. David E. Andrews
Director of Aviation
Sonoma County Airport
2200 Airport Boulevard
Santa Rosa, California 95403-1091

Dear Mr. Andrews:

Thank you for meeting with members of my staff and of the legal staff of the Federal Aviation Administration (FAA) on October 20, 1992, to resolve outstanding issues concerning the applicability of the Airport Noise and Capacity Act of 1990 (ANCA) to the County's 1991 Airport Noise Ordinance 4440. We have received additional information from your counsel as promised at that meeting. Several offices within the FAA have reviewed all of the information provided by you and the County Counsel's office.

The problem facing us is that the FAA must assure compliance with ANCA before the FAA can approve the County's pending application to collect passenger facility charges (PFC). ANCA establishes dates after which an airport proprietor is not eligible for PFCs and funds under the Airport Improvement Program unless it has adopted noise and access restrictions in compliance with certain procedural and substantive requirements. The County passed the ordinance at issue in September 1991, almost a full year beyond the dates established by the ANCA. The ordinance appears to impose noise level limits and criminal sanctions for violations of these limits that were not previously included in any airport rule or regulation. Although the Air Transportation Element (ATE) of the County's General Plan was adopted as a governmental act, the restrictions in the ATE do not appear to have been adopted simultaneously as airport rules and regulations. The permissible aircraft noise limits were included in some leases with air carriers operating at the airport prior to ANCA. Yet, the noise limits do not appear to have been mandatorily implemented otherwise prior to the 1991 ordinance. Therefore, the ordinance appears to be a new restriction applicable to all users and subject to the requirements of ANCA.

There is insufficient evidence to determine that the noise restriction was fully implemented and, therefore, in effect prior to the dates established by the ANCA. Therefore, it may be necessary for the FAA, under 14 CFR Part 158.29, to disapprove your PFC application. We urge the County to consider seeking further deferral by the FAA of a PFC application until we can resolve the compliance issues and to remove this impediment prior to our final decision concerning the PFC application.

Part 161, Subpart F, provides that "Rescission of, or a commitment in writing signed by an authorized official of the airport operator to rescind or permanently not enforce, a non-complying restriction will be treated by the FAA as action restoring compliance with the Airport Noise and Capacity Act of 1990 or this part with respect to that restriction." Please notify us immediately, in writing, whether you will take action consistent with this requirement of Part 161, after which FAA may proceed with a determination under Part 158. Such a commitment would essentially return the airport to its pre-ordinance status with respect to implementing the Air Transportation Element of the County's General Plan.

According to my conversations with you, the airport was satisfactorily achieving its noise goals prior to this ordinance, which is an optimistic indication that the County can bring the airport into full compliance with ANCA without compromising these goals.

Sincerely,

/s/

Leonard L. Griggs, Jr.
Assistant Administrator for Airports