



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

Jul 19, 1994

Mr. Alfred E. Werner, Commissioner
Town of Islip
Long Island MacArthur Airport
100 Arrival Avenue
Airline Terminal Building
Ronkonkoma, NY 11779

Dear Mr. Werner:

On September 15, 1993, the Federal Aviation Administration (FAA) transmitted to you its Record of Approval (ROA) for the Town of Islip's Noise Compatibility Program for Long Island MacArthur Airport. The ROA was the result of an FAA evaluation of the Town of Islip's recommended program contained in the final report submitted under 14 CFR Part 150. In your study, reference was made to Islip's nighttime noise restriction/ordinance adopted in 1984 and the 1985 interim environmental management plan. We note that neither was analyzed in accordance with Part 150 standards nor submitted as a recommendation for FAA approval under 14 CFR Part 150.

The FAA is in receipt of a November 18, 1993, letter to Ms. Lynne S. Pickard, FAA Community and Environmental Needs Division, from Mr. Richard P. Taylor of Steptoe and Johnson, attorney for the Town of Islip. The letter, a copy of which was forwarded to your office by Mr. Taylor, transmitted information to the FAA concerning Islip's two noise plans. First, regarding whether ISP's noise restrictions are "grandfathered" from requirements of the Airport Noise and Capacity Act of 1990 (ANCA) and implementing regulation 14 CFR Part 161, the FAA has determined that both the ordinance and environmental management plan (EMP) were in effect before enactment of ANCA, and not changed since ANCA's passage. Any change to either the EMP or the 1984 nighttime ordinance, including changes in enforcement or implementation, would require compliance with applicable standards of 14 CFR Part 161. This determination is limited to compliance with ANCA of the 1984 ordinance and 1985 EMP and does not address compliance with any other Federal requirements, including Federal grant assurances.

The FAA is concerned that there is a misunderstanding about the role of the Noise Compatibility Program and subsequent Federal decision under Part 150. A statement was made in the November letter from Steptoe and Johnson that "a decision was made by Islip to continue both plans without change. This determination was fully described in the final Part

150 study, which was approved by the FAA." As you know, the existing night restriction and the EMP were not included in the program recommendations submitted for FAA approval. The FAA does not approve any part of a Part 150 Noise Compatibility Program which is not explicitly submitted for approval, and subsequently approved by the FAA. Thus, the FAA has not officially reviewed or approved either the 1984 restriction or the EMP. The FAA's ROA may not be construed as FAA approval of either noise restriction.

Sincerely,

Lynne S. Pickard