

Chapter 21. Land Use Compliance Inspection

21.1. Introduction. This chapter provides guidance for conducting land use inspections at federally obligated airports. It is the responsibility of the FAA airports district offices (ADOs) and regional airports divisions to conduct a minimum of two (2) land use inspections annually per region for general aviation (GA) airports, and to resolve issues identified during the inspections. The FAA headquarters Airport Compliance Division (ACO-100) will report the results of these inspections to Congress.

21.2. Background. The purpose of the land use inspections is to determine whether a sponsor is in compliance with its federal obligations for land use. These federal obligations accrue to the sponsor when the sponsor accepts grants or transfers of property. Land use is an important aspect of successful and lawful airport management and operation.

21.3. Elements of the Land Use Inspection. The inspections are built on several processes – airport selection, data gathering, preinspection, onsite inspection, and corrective actions. The inspections contribute to the completeness of land use records and supporting data that may be useful for formal and informal compliance determinations.

21.4. Responsibilities. In accordance with the guidance provided below, the ADOs or regional airports divisions are responsible for conducting the land use inspections. ADOs and state block grant agencies are expected to support the regional efforts. ACO-100 will provide guidance and technical support.

21.5. Authority.

a. Congressional Requirement. In Senate Report No. 106-55 issued in May 1999, Congress directed the FAA to conduct land use inspections at all airports with lands acquired with federal assistance. It required the FAA to report on the survey results, including the scope of improper and noncompliant land use changes, the proposed enforcement and corrective actions, changes made to FAA's guidelines for use by ADOs and regional airport divisions to assure more consistent and complete monitoring and enforcement, and the extent of FAA approved land releases. Accordingly, the FAA developed the Regional Land Use Inspections Program, which requires the FAA to conduct a minimum of 18 inspections (two per region) per year, and to conduct additional inspections as needed and where resources allow.

b. Annual Report to Congress. Section 722 of Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21) mandates that the FAA compile the data collected from these inspections, along with other relevant information, and report it to Congress. (See 49 United States Code (U.S.C.) § 47131, *Annual Report*.)

The report must include:

- (1). a detailed statement of airport development completed;
- (2). the status of each project undertaken;
- (3). the allocation of appropriations;
- (4). an itemized statement of expenditures and receipts; and
- (5). a detailed statement listing airports that the Secretary believes are not in compliance with grant assurances or other requirements with respect to airport lands and including the circumstances of such noncompliance, the timelines for corrective action, and the corrective action the Secretary intends to take to bring the airport sponsor into compliance.

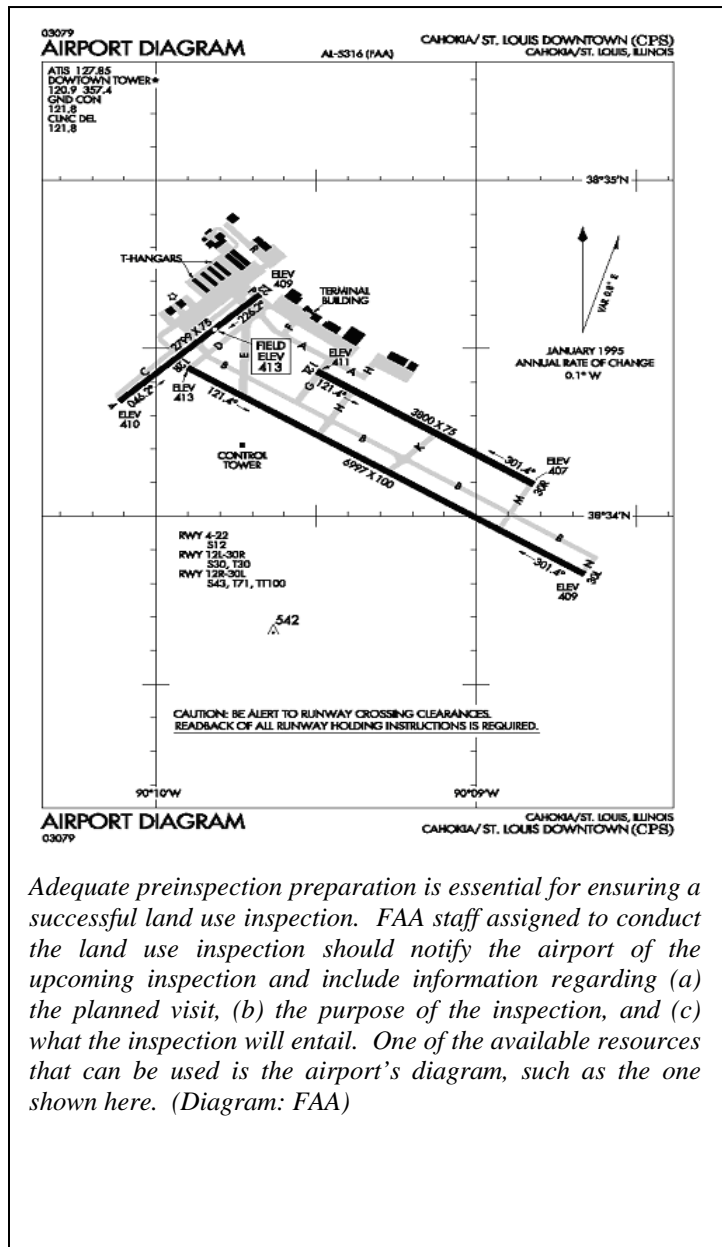
The statute also states that FAA does not have to conduct an audit or make a final determination before including an airport on the list referred to in paragraph 21.5.b(5) directly above.

(A sample post-inspection land use report is provided at the end of this chapter.)

21.6. Land Use Inspection Guidance.

a. Selection Process

A purely random process in selecting airports for land use inspections is not considered to be efficient due to the limited number of inspections to be conducted on a yearly basis in each FAA region. By selectively targeting airports, the positive impact of the inspection program can be maximized. A "one-size-fits-all" approach is not necessarily the most efficient. Selection criteria should be defined and then used to provide FAA regional airports divisions with the



Adequate preinspection preparation is essential for ensuring a successful land use inspection. FAA staff assigned to conduct the land use inspection should notify the airport of the upcoming inspection and include information regarding (a) the planned visit, (b) the purpose of the inspection, and (c) what the inspection will entail. One of the available resources that can be used is the airport's diagram, such as the one shown here. (Diagram: FAA)

needed flexibility to adapt to each case while yielding the necessary data required to meet the statutory requirements under 49 U.S.C. § 47131.

Therefore, each FAA regional airports division should develop its own selection process using the variables, conditions, and recommendations listed in this chapter. Coordination – especially preinspection coordination – with the ADOs and state aeronautical agencies would be appropriate. ADOs and state block grant aeronautical agencies may be the most knowledgeable and familiar with specific airport conditions and potential compliance problems. Assistance from, and the involvement of, state block grant agency officials is essential when conducting inspections in those states. When and if noncompliance situations are uncovered as a result of the land use inspections, the state block grant agency should be in a position to play a role in requesting and supervising corrective action and notification, as well as informal resolution.

b. Selection Data

The information needed to identify airports for selection in land use inspections is available from many sources. The most valuable tool in selecting an airport for inspection is prior knowledge of compliance problems. Prior knowledge can come from several sources, including:

(1). Past Inspections: Previous site inspections may include site visits by FAA airports personnel, visits by FAA personnel outside of airport compliance (such as FAA Airport Certification Safety Inspectors conducting a Part 139 inspection), and site visits by others outside of FAA, provided they are knowledgeable about some aspects of airport compliance (such as state inspectors performing FAA Form 5010 inspections).

(2). Complaints: Telephone, written, or informal complaints (Part 13.1 Reports) from users or tenants; formal complaints filed with FAA headquarters.

(3). Documents: Historical file review, recent and updated Airport Layout Plan (ALP) and Exhibit "A," as well as previous versions of both.

c. Selecting Airports for Inspection

In developing guidance for regional administration on the land use inspection portion of any airport compliance program, it is reasonable to emphasize those airports with the largest potential for abuse. Although not directly determining the priority of airport selection, several factors may assist in selecting a particular airport for a land use inspection. These factors include:

(1). Specific request from FAA Headquarters. ACO-100 may request an airport land use inspection when that inspection would directly benefit a current investigation or formal complaint or otherwise address a potential land use problem.

(2). Excessive number of requests for airport property release. An excessive number of requests for airport property releases and/or a significant amount of released land may require additional oversight. This situation could lead to an increase in the potential for misuse of airport property. It could generally indicate systematic nonaeronautical use of the airport.

(3). Size, classification, and total number of operations at an airport. The size, classification, and total number of operations at an airport are important elements in selecting an airport. This is because of the potential high return that can be derived from the land use inspection given the acreage, amount of federally funded property, role and importance of the facility, number of based aircraft, and level of operations.

d. Preinspection Preparation

Adequate preinspection preparation is essential in ensuring a successful land use inspection. FAA staff assigned to conduct the land use inspection should notify the airport of the upcoming inspection and include information regarding the planned visit, the purpose of the inspection, and what the inspection will entail. The preinspection preparation could last anywhere from a half day to a full day depending on the specifics of the airport, such as airport size, number of tenants, and availability of land use property records. Several issues may be encountered during a land use inspection. These usually fall within the following categories: Use of airport property, conformity to the ALP, continuing special conditions, disposal of grant acquired land, disposal of surplus property, approach protection, and compatible land usage within airport property. (This should not be confused with requirements under Grant Assurance 21, *Compatible Land Use*, which



Approved interim or concurrent revenue-production uses may not interfere with safe and efficient airport operations. These uses will terminate as soon as the land is needed for aeronautical use. For instance, if airport property is used for farming around the Air Traffic Control (ATC) tower in a revenue-generating capacity (above), the FAA would expect the airport to terminate that interim or concurrent use in order to accommodate, for example, aircraft parking. During a land use inspection, it is important to review the record for such approved uses and then verify during the site visit that such uses are followed. The photo below shows airport property being used as a golf course on an interim basis. This can generate airport revenue. However, the airport must retain its ability to return the land to aeronautical use at its convenience without regard to the wishes of the golf course. In many instances, airport sponsors have resisted the need to revert to an aeronautical use because of the “perception” that the golf course now belongs to the community and not to the airport. In other instances, airports have avoided providing needed aeronautical projects to keep the golf course in operation. This can be prevented by not approving these types of uses or by imposing special conditions such as an automatic termination after a few years. (Photos: FAA)



covers compatible land use *outside* the airport.).

If necessary or applicable, the FAA person conducting the inspection should obtain from the airport, the ADO, or the state block grant aeronautical agency any relevant information or documentation to review during the preinspection preparation. The first phase of the preinspection process should include a review of all relevant airport data available in the ADO and regional airports division, as suggested below:

(1). Obligating Documents. Review applicable grant, surplus, and nonsurplus property documents to understand the specific commitments of the airport owner, especially any special conditions in such documents. The intent of the land use inspection is to ensure that all airport property, including each area of surplus property or grant funded land, is used or is available for use for the purposes intended by the land conveyance or grant agreement.

(2). Land Use Maps/Land Files. The majority of the preinspection preparation process conducted by FAA personnel should focus on inconsistencies between the ALP, Exhibit "A," parcel maps, or any other land use document relevant to the airport sponsor's land use and planning.

Documents such as airport diagrams and the airport facility directory (AFD) should also be consulted for general familiarization. One of the most important steps at this stage is to identify the difference between land that constitutes airport property (actual airport site) and land the airport owns, which may include other property not adjacent to the airport. For example, the airport boundary delineated on the ALP may not show property the airport owns outside that boundary, yet that property may be federally obligated. This knowledge will be used during the onsite inspection to confirm the land uses visually. Things to do or consider when reviewing land files include, but are not limited to:

(a). Review the most current ALP and compare it with older ones. There should be no actual or proposed development or use of land and facilities contrary to an ALP previously approved by the FAA. Ensure that the Exhibit "A" was updated when new grants were issued or when an FAA land release was issued. Pay particular attention to buildings or structures that could turn



The bulk of the preinspection preparation process should focus on inconsistencies between the ALP, Exhibit "A," or any other land use document relevant to the airport sponsor's land use obligations. One of the most important steps at this stage is to identify the difference between land that constitutes airport property (actual airport site) and land the airport owns, which may include other property not adjacent to the airport. For example, the airport boundary delineated on the ALP may not show property the airport owns outside that boundary, yet that property may be obligated. This knowledge will be used during the onsite inspection to confirm the land uses visually. (Photos: FAA)

into obstruction problems. If an ALP is out of date or fails to depict existing and planned land uses accurately, make inquiries and take appropriate actions.

(b). Determine whether the Exhibit "A" needs to be updated.

(c). Review and compare the history of land acquisitions and releases.

(d). Identify general land uses, both current and planned. This would include considerations such as whether a use is aeronautical or nonaeronautical, whether uses such as industrial/commercial and agricultural are appropriate, and how buildings and hangars built for aeronautical use are actually being used.

(e). Identify all easements and all temporary and concurrent uses.

(f). Compare FAA and state block grant records, if applicable or required.

(3). Self-certification Documents. The person conducting the inspection should review any documents and records of self-certification, if applicable. Although self-certification may be an important element of a regional airport compliance program, it is not a substitute for an actual land use inspection. However, self-certification data can be used as background or reference information.

(4). Grant-Acquired Land, Surplus and Nonsurplus Property. While reviewing airport property and land use documents such as the ALP or Exhibit "A," pay particular attention to all land acquired with grant funding, including land acquired for noise protection, as well as surplus and nonsurplus property. Is this land still being used for the purpose for



The most common improper and noncompliant land uses are situations where nonaeronautical leaseholds are (1) located on designated aeronautical use land without FAA approval, (2) not shown on the ALP, or (3) located on property not released by FAA. It also includes permitting dedicated aeronautical property to be used for nonaeronautical uses. Some examples of improper nonaeronautical uses on airport property designated for aeronautical uses are depicted here. (Photos: FAA)

which it was acquired? Also note whether the conditions associated with any previous disposal are being followed.

(5). Release Documentation. Review all documentation relating to past releases and disposal of airport property. Identify land released by tract or legal description. Check that release conditions or requirements (i.e., environmental requirements, height restrictions, designated uses of proceeds from land sales or leases, fair market value (FMV), and general compatibility requirements) are followed. Also look at the amount of land released (or to be released). Compare this information with correspondence files, land files, ALP and Exhibit "A." Determine if land released for sale has been sold, the deed recorded by the county recorder's office, and proceeds deposited into the airport account.

(6). Master Plan, Part 150, and Environmental Impact Statements. Review the Master Plan, any Part 150 studies, any environmental impact statements (EIS), and any other planning and environmental documents for relevant information. Environmental determinations might be relevant for understanding land uses.

(7). General Correspondence. Review recent general correspondence, including complaints, with the airport sponsor or any airport official or representative regarding issues at the airport that may be relevant to the land use inspection.

(8). Leasehold Review. Obtain a list of leaseholds, both aeronautical and nonaeronautical, so they are known to the inspection team before the onsite inspection occurs. In addition, use this leasehold information to crosscheck the ALP and Exhibit "A" for appropriate land uses.

(9). Special Requirements. Review any special requirements. These are conditions other than those controlled by project payments under the Airport Improvement Program (AIP). Such special conditions might include specific commitments regarding the disposition of proceeds from the disposal of surplus property and any other continuing pledges undertaken by the airport sponsor. It might also include compatible land use requirements or development restrictions.

e. Onsite Inspection Procedures

With adequate preinspection preparation, the actual onsite inspection will be easier and should last approximately half a day. Below are several specific activities that should be included in the onsite inspection:

(1). Determine whether any improvements being currently processed under FAA Form 7460-1, *Notice of Proposed Construction or Alteration*, or that are under construction are inconsistent with the ALP or other land use requirements. No actual or proposed development or use of land and facilities should be contrary to the FAA-approved ALP.

(2). Confirm land uses. Each land area should be identified and verified to ensure its intended or approved use corresponds to the actual use. Such identification should extend to aeronautical service areas, industrial areas, agricultural areas, recreation areas, and those parcels that help in protecting aerial approaches.

(3). Review and compare airport property and the ALP. Specifically note whether all land acquired with federal funds, including land acquired for noise mitigation, is still being used for the purpose for which it was acquired. The FAA must approve any concurrent compatible use of land purchased with federal funds.

(4). Determine whether there are incompatible land uses on airport property. Check for building restriction lines (BRL). If these are not on the ALP, recommend they be included at the next cycle.

(5). Review leases, use agreements, and applicable financial data (such as airport account records and appraisals) if appropriate or required based on inconsistencies between depicted and actual land use.

(6). Ensure that all airport property released from its federal obligations is, in fact, being used in accordance with the release document and any special conditions or requirements.

f. Problem Areas

There are many types of issues that could arise or be identified during or after a land use inspection. Several of these may be indicative of improper and noncompliant land use. Examples of these include:

(1). **Missing release documents.** Release documents cannot be found to substantiate the ALP or Exhibit "A." In several instances, specific airports have told FAA that certain property was released from federal obligations or an ALP shows airport property released from federal obligations, yet no release documents can be found. Without the actual release documents, there is no way to confirm whether the property was actually released and/or if special conditions were issued along with the release.

(2). **Outdated ALP.** An outdated ALP has the potential to result in many improper and noncompliant land uses.

(3). **Special conditions.** Failure to comply with special conditions, restrictions, reservations, or covenants associated with land releases makes it difficult to determine whether the land is being used properly. It also makes it difficult to reconcile actual versus approved land use. For example, it would be an improper land use if the FAA released airport land under special land use conditions that include a specific use, but the airport is not using the land in accordance with the special conditions in the release. Other examples of violations of the sponsor's obligations include failing to sell FAA-released property at fair market value following an appraisal as required in the release, or not using the sale proceeds for airport purposes.

(4). **ALP and Exhibit "A" conflict.** An ALP may show airport property to be a nonaeronautical leasehold while the Exhibit "A" depicts the land in question as grant acquired property. It is possible to have an actual nonaeronautical use correctly depicted on the ALP but conflicting with the Exhibit "A." In determining obligations, Exhibit "A" takes precedence since it is part of the grant agreement establishing the obligation. Where a question or conflict is found, Exhibit "A"

from all grants within the 20 years prior to the inspection should be reviewed to determine if the sponsor changed the description of obligated airport property, possibly without FAA being aware.

In determining obligations, Exhibit “A” takes precedence since it is part of the grant agreement establishing the obligation.



In addition to being a serious safety issue, the pavement at this airport inspected by the FAA needs obvious repair. Letting airport pavement deteriorate to this level is inconsistent with the sponsor’s grant assurances. (Photo: FAA)

(5). Nonaeronautical leaseholds. The most common improper and noncompliant land uses are situations where nonaeronautical leaseholds are located on designated aeronautical use land without FAA approval or on property not released by FAA, and permitting dedicated aeronautical property to be used for nonaeronautical uses. Examples of typical uses include using hangars to store vehicles or other unrelated items. Other improper land uses found in the past have included using aeronautical land for nonaeronautical purposes such as animal control facilities, nonairport vehicle and maintenance equipment storage, aircraft museums, and municipal administrative offices. (NOTE: Approval of an ALP showing future nonaeronautical land use does not constitute FAA approval for that nonaeronautical use when it may actually occur. The ALP is a planning document only. FAA approval will be required at the time the land is to be used for a nonaeronautical purpose.)

(6). Incompatible Land Uses. Incompatible land uses include obstructions or residential construction built on airport property or in violation of conditions of released land or residential development within grant funded aircraft noise compatibility land. Introducing a wildlife attractant or failure to take adequate steps to mitigate hazardous wildlife at the airport can also result in an incompatible land use.⁴⁶ Incompatible land uses can include wastewater ponds, municipal flood control channels and drainage basins, sanitary landfills, solid waste transfer stations, electrical power substations, water storage tanks, golf courses, and other bird attractants. Other incompatible uses would be towers or buildings that penetrate Part 77 surfaces or are located within a runway protection zone (RPZ), runway object free area (ROFA), object free zone (OFZ), clearway or stopway.

⁴⁶ For information related to the impact on aviation of wildlife, refer to *Hazardous Wildlife Attractants On or Near Airports*, Advisory Circular (AC) 150/5200-33B, and *Wildlife Strikes to Civil Aircraft in the United States 1990-2007*, Report of the Associate Administrator for Airports, Office of Airport Safety and Standards.

(7). Eminent Domain. An improper land use may include a situation involving eminent domain. For example, a local government may have taken one or more parcels of airport property without FAA approval through eminent domain in order to widen a road.⁴⁷

(8). Airspace Determination Cases. A favorable airspace determination on a proposed structure does not by itself satisfy land use compliance requirements. There is a misconception among airport sponsors that if a proposed structure is accepted by the FAA based on airspace standards, it constitutes FAA *de facto* approval of proposed land use. That is not the case. For example, a hangar on the airport might not pose an airspace issue, but if that hangar is intended to be used as a residential hangar, it would still represent a compliance problem as an incompatible land use. The regional airports division or ACO-100 makes the determination on land use compliance separately from any related airspace determination, and the regional airports division should advise the sponsor of the distinction between the two independent FAA determinations.

(9). Unapproved interim or concurrent uses. An unapproved use might occur following approval for farming near the RPZ if a land use inspection finds permanent structures instead of the authorized farming use. It is also an unapproved land use if nonsurplus land transferred for approach protection was approved for farming purposes for a three-year period, but the lease term is for more than three years or the lease shows a rental rate set at less than fair market value. The sponsor must resolve this type of land use issue promptly. The inspection team should pay particular attention to golf courses on airport property as an interim or concurrent use. This is because experience has shown airport sponsors are reluctant to give up the facility later on and return the land to its aeronautical function. Also, experience has



The most common improper and noncompliant land uses are situations where nonaeronautical leaseholds are located on designated aeronautical use land without FAA approval (not shown on the ALP) or on property not released by FAA. It also includes permitting dedicated aeronautical property to be used for nonaeronautical uses. Such typical uses include using hangars to store vehicles or other unrelated items. Other improper land uses found in the past include using aeronautical land for nonaeronautical purposes such as animal control facilities, nonairport vehicle and maintenance equipment storage, aircraft museums, and municipal administrative offices. As shown here at the Van Nuys Airport in California, prime aeronautical property is being used for vehicle storage for a local car dealership. Following FAA intervention, the airport sponsor took corrective action. (Photo: FAA)

⁴⁷ See also discussion of Halfmoon Bay Airport in *Montara Water & Sanitary District v. County of San Mateo*, outlined in chapter 23 of this Order, *Reversions of Airport Property*.

shown that golf course operations create revenue use problems, particularly since golf courses may be operated at below fair market value rents. Close attention should also be exercised in cases where the proposed interim use involves shooting ranges. In most instances, shooting ranges should not be permitted at all, and should only be considered in very limited and unusual circumstances. A range can be inherently hazardous unless properly controlled and mitigated. Moreover, use as a shooting range may be difficult to discontinue later if the land is needed for an aeronautical use.

NOTE: As discussed in chapter 22 of this Order, *Releases from Federal Obligations*, care must be taken when considering recreational use to avoid encumbering the property under provisions of section 4(f) of the Department of Transportation Act of 1966 (49 U.S.C. § 303).⁴⁸

(10). Roads and Other Structures. A public road built through airport property without FAA approval is a problem if it impacts an RSA, Part 77 surfaces, the RPZ, or an OFZ. This is especially problematic if the property where the RSA sits was acquired with federal assistance. The sponsor may have constructed roads or allowed nonsponsor roads to be built on and through airport property, effectively isolating airport parcels from the rest of the airport and making them unsuitable for aeronautical use. At the same time, if a sponsor permits structures to be erected in the RSA, this would raise safety issues and potentially be a violation of its federal obligations.

While the purpose of the inspection is to determine the extent of improper and noncompliant land use, the person conducting the land use inspection should nonetheless advise the airport sponsor of other grant assurance violations, as well as any recommended remedies and deadlines for the sponsor to complete corrective action.

g. Corrective Action. Corrective action should be initiated when discrepancies are found following an inspection. A letter stating the results of the inspection and including all land use discrepancies should be sent to the airport sponsor as soon as practical. The letter should include detailed information on how the airport can return to compliance with its federal obligations. It should also include a timeline for completion. The letter could be as simple as requesting an updated ALP within 120 days or requesting the airport to submit a formal request for a land release to correct a land use situation within 30 days. In some cases, the corrective action may be as drastic as requiring the removal of an obstruction to air navigation. Failure to take corrective action will lead to compliance action by FAA. Often, improper use of airport property could lead to violations of additional federal obligations or grant assurances, such as revenue use and exclusive rights. While the purpose of the inspection is to review land use, the person conducting the land use inspection should nonetheless advise the airport sponsor of other grant assurance violations noted, as well as any recommended remedies and deadlines for the sponsor to complete corrective action. However, only noncompliant land use needs to be reported to

⁴⁸ Section 4(f) property refers to public parks and recreation lands, wildlife and waterfowl refuges, and historic sites. It also applies to wild and scenic rivers. Section 4(f) was recodified as section 303(c).

ACO-100 for inclusion in the annual report to Congress. ACO-100 will include noncompliant land uses in the Report to Congress if those land uses remain unresolved at the end of the fiscal year.

h. Post-Inspection Land Use Report. It is important to maintain adequate records of all land use inspections. The relevant land use information collected from the inspection should be compiled in a post-inspection land use report, which will include narrative comments.

Although there is no set format for compiling this report, suggested sections or headings of a post-inspection land use report include:

- Inspection site location
- Individual conducting the inspection
- Date of inspection
- Background
- Findings
- Required corrective action
- Timeline for corrective action
- Conclusion

Narrative comments should be included detailing any inconsistencies or noncompliance situations discovered during the inspection, as well as the necessary corrective action(s) as appropriate. Within 30 days of completing the land use inspection, but before the end of the fiscal year in which the inspection took place, the land use inspector who performed the inspection should forward a copy of the land use report to ACO-100.

21.7. Sample Correspondence. The end of this chapter has several samples of correspondence related to land use inspections.

21.8. through 21.12. reserved.

Follow-Up and Corrective Action Sample, Page 1

U.S. Department
Of Transportation

**Federal Aviation
Administration**

Central Region
Iowa, Kansas
Missouri, Nebraska

901 Locust
Kansas City, Missouri 64106-2325

June 7, 2004

Mr. Paul Sasse
City Manager
City of Independence
120 North 6th Street
Independence, KS 67301

Dear Mr. Sasse:

Independence Municipal Airport
Land Use Compliance Inspection
Independence, Kansas

A representative of the Federal Aviation Administration conducted a land use inspection of the Independence Municipal Airport on Wednesday, May 19, 2004. The purpose of the inspection was to ensure that the airport is in compliance with the terms of its Federal obligations dealing specifically with the use of airport property.

The inspection revealed that the City of Independence (City) has been leasing airport property to the Independence Gun Club for \$1 a year. As we discussed in our meeting, this does not appear to be in compliance with the requirement that the rental of surplus airport property for non-aeronautical activities shall generate fair market rent or with the requirement that the airport owner will maintain a fee and rental structure to make the airport as self-sustaining as possible.

In order to make the airport as self-sustaining as possible, fair market value must be obtained for the lease. All revenue generated by the airport is considered to be airport revenue and must be used on the airport for airport purposes.

It is our understanding that the current lease with the Independence Gun Club is a yearly lease and will expire on September 9, 2004. We recommended, and you agreed, that the City would receive fair market value for the lease of this property when the City renegotiates the lease agreement. Your local attorney should become familiar with the provisions of the lease agreement to ensure that the leasing arrangements would not impair the City's ability to comply with its Federal obligations.

Overall, the Independence Municipal Airport appears to be a well-maintained and well-run airport. You are knowledgeable about the tenants, their activities, and have a good understanding of the grant assurances. Based on the land-use inspection, it appears that the City of Independence is in compliance with its land use obligations.

Thank you for your cooperation during the inspection. Please call me at (816) 329-2642, if you have any questions.

Sincerely,

Nicoletta S. Oliver
Airports Compliance Specialist

cc:
AAS-400
Mr. Tony Royse, CMC
Director of Finance-City Clerk
City of Independence
120 N. 6th Street
Independence, KS 67301

POST-INSPECTION LAND USE REPORT

Date:

Prepared By: Roger O. Hall
Airports Program Manager
Airports Division, FAA Southern Region

I. Inspection Site Location

Opa Locka Airport (OPF), Miami-Dade County, FL

II. FAA Representatives

Roger O. Hall, Airport Programs Manager, Airports Division, Atlanta, Georgia
Ilia A. Quinones, Program Manager, Orlando Airports District Office

III. Miami-Dade Aviation Department (MDAD) Contacts

Carlos F. Bonzon, Ph.D., P.E., Interim Aviation Director
Steve Baker, Deputy Aviation Director
Susan Warner Dooley, Assistant Aviation Director, Business Operations
Bruce Drum, Assistant Aviation Director, Airside Operations GA Airports
Manuel Rodriguez, Manager of Development
Jose A. Ramos, Chief, Aviation Planning
Carol Anne Klein, Professional Compliance
Ana Sotorrio, Associate Aviation Director, Governmental Affairs
Judy Seidner, Executive Assistant to the Interim Director
Greg Owens, Manager General Aviation Business Development
Chris McArthur, Airport Manager
George Manion, General Aviation Airports Supervisor

IV. Date of Inspection

April 12-14, 2005

V. Purpose

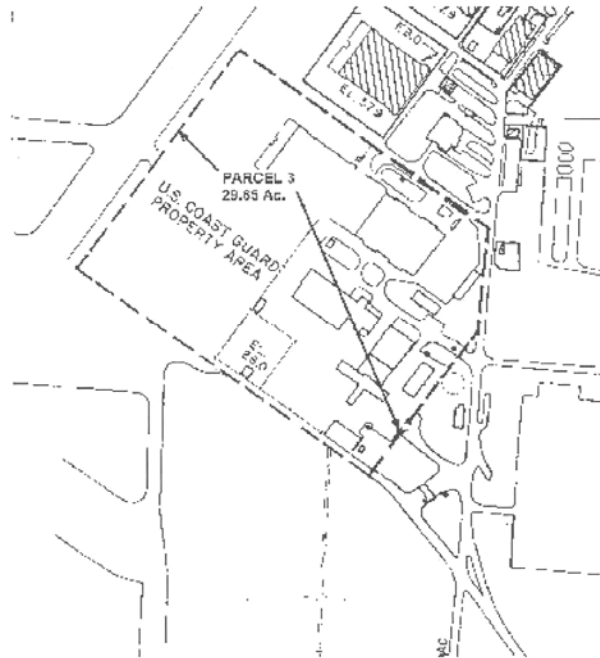
In response to a General Accounting Office report issued in May 1999 entitled "*Unauthorized Land Use Highlights Need for Improved Oversight and Enforcement*" and language in Senate Report No. 106-55, also issued in May 1999, the FAA adopted a program to conduct annual land-use inspections at various airports where land was acquired through Federal assistance programs.

The data collected by these inspections is compiled and included in an Annual Airport Improvement Program Report to Congress. This report lists airports that are not in compliance with grant assurances or other requirements with respect to airport lands.

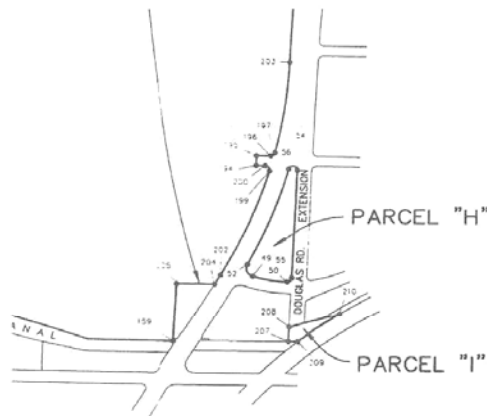
VI. Opa Locka Airport Land Background - The following is based on records and files kept by the FAA Orlando Airport District Office:

A. Federal Land Transferred To The County:

On November 16, 1961, the General Services Administration (Government) transferred two parcels of land to the Board of County Commissioners of Dade County. The primary tract, Parcel No. 1, contained about 1739 acres. Within this tract, the federal government retained ownership of Parcel No. 3. This is a 29.65-acre parcel (see insert below) that is the current site of the United States Coast Guard (USCG) Station, Miami.

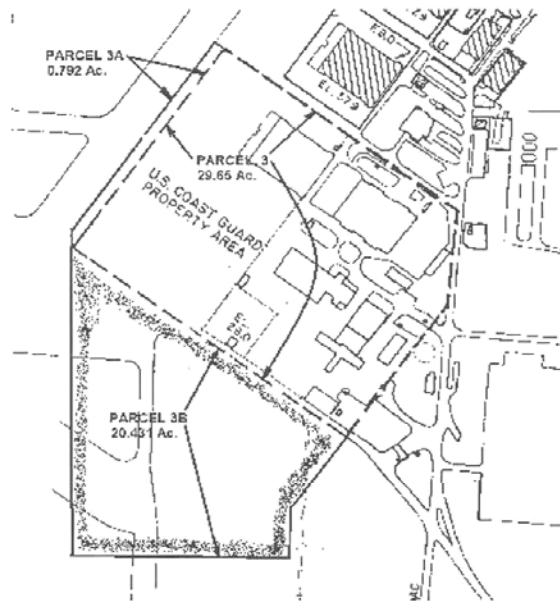


The other tract transferred to the County, Parcel No. 2, was a small area encompassing only about 0.36 acres. This small tract was detached from Parcel No. 1 and was located north of the Opa Locka Canal, east of the Douglas Road Extension, and north of the Seaboard rail line.



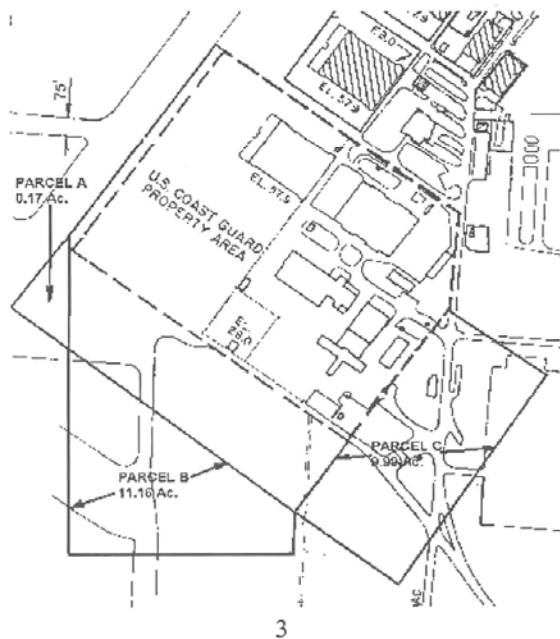
B. County Land Transferred To The USCG:

On April 17, 1969, the County transferred two parcels, by quitclaim deed, to the USCG. Parcel No. 3B contained 20.431 acres and adjoined the southwesterly side of Parcel No. 3 (see insert below). Parcel No. 3A consisted of 0.792 acres and adjoined the northwesterly side of Parcel No.3. No records were found to show the FAA approved disposal and transfer of Parcels 3A and 3B.



C. County – USCG Reciprocal Lease Agreement:

Circa 1993, the County and USCG drafted a no-cost, reciprocal lease agreement that was renewable annually for 29 years. The FAA has received a completed copy of the original agreement. The FAA also has a copy of a resolution dated July 13, 1993, in which the County Commission approved the agreement. The agreement provides the USCG will lease Parcel “B” (this is a portion of Parcel No. 3B that was transferred by the County to the USCG in 1969) to the County for purposes of expanding RW-12/30. In exchange, the County leased Parcels “A” and “C” to the USCG. The lease shows the USCG needed “A” and “C” to expand their facilities (see insert below). Parcel “B” contains 11.16 acres, Parcel “A” contains 0.17 acres, and Parcel “C” contains 9.99 acres.



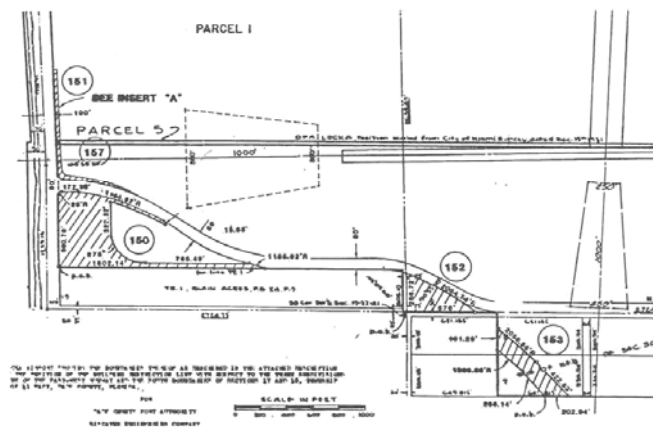
During the land-use inspection, County representatives indicated that Congress had approved the exchange of Parcel "B" for Parcels "A" and "C". However, no confirmation of Congressional approval has been provided. To FAA's corporate knowledge, the FAA did not approve this transfer. The FAA representatives conducting the inspection were concerned the boundaries of Parcel "C" may encompass several airport roads as well as a public apron and utility right of ways. Because the Airport can be damaged if the CG chooses to exercise their option to develop, occupy, or just "fence in" Parcel "C," it is important to clarify if there are plans to replace or compensate the County for the loss of these facilities if this were to happen. Paragraph 10.b of the unsigned agreement between the County and USCG provides the USCG will compensate the County for losses because of construction but it is unclear if this means the USCG will compensate the County for the loss of airport roads, apron, and possibly utilities and other improvements.

While there is a copy of the County-USCG quitclaim deed in the FAA's files for the 1969 transfer of Parcels 3A and 3B, there is no record the FAA or Congress approved the exchange of Parcel B for Parcels A and C.

D. FAA Releases of Property Transferred to The County

On March 13, 1979, the FAA executed three separate releases. These releases were for the primary electrical distribution system, the water distribution system, and the sewage treatment system. Ownership of the various utility system facilities was sent to departments of County government or to private utility companies.

On June 26, 1989, the FAA released five parcels containing 13.257 acres. The County sold these parcels to the Florida Department of Transportation to accommodate constructing Gratigny Parkway along the southwest perimeter of the airport. The parcels were labeled 150, 151, 152, 153 and 157 (see below).



E. Grant Acquired Land:

1. Federal Aid to Airport Program (FAAP)

- Project 9-08-054-D201 dated June 21, 1962 – The work description for this grant included, "Acquisition additional clear zone land runway 9-27; acquire additional land runway 9-27 development (portion of Parcel 4)." Special Condition No. 11 of the grant stated, "... the United States will not participate in the acquisition of ... Lot 8, 9 and 10 Venetian Acres." This special condition also provided, "... Dade County... will obtain the abandonment of all public streets to the extent that such streets are included within Parcel 4 except NW 156 Street from the West line of NW 47th Avenue to the east line of NW 42nd Avenue which NW 156 Street will remain open to public use." This appears to be the airport property purchased in fee title that is located on the north side of Biscayne Canal.
- Project 9-08-054-D603 dated June 20, 1966 – The grant work description included, "Acquire land, airport development (a fee simple title acceptable to the Administrator, to Parcel 5, 13 acres)..." Parcel 5 appears to be the Opa Locka Canal Right of Way based on a survey dated December 15th, 1931, which ran approximately due east and west between Red Road and NW 47th Avenue.

- Project 9-08-054-D705 dated June 27, 1967 – The grant work description stated, “Acquire land (fee simple title acceptable to the Administrator) in parcel 6W, 46.34 acres, for clear zone to runway 9L, and in parcel 6N, 73.69 acres, as joint clear zones to runways 18R and 18L; and an aviation easement acceptable to the Administrator in parcel 6E, 42.18 acres, as a clear zone to runway 27R.”

On March 7, 1978, this grant was amended. The obligation to acquire interest in Parcel 6N was deleted, the acreage to be acquired for Parcel 6W was reduced from 46.34 acres to 41.01 acres, and the acreage to be acquired for Parcel 6E was reduced from 42.18 acres to 27.82 acres.

2. Airport Development Aid Program (ADAP)

- Project 5-12-0047-02 dated September 10, 1979 – The grant work description stated, “Reimburse land clear zone/approach protection runway 9L (5.78 acres).”

3. Airport Improvement Program (AIP) - Development Land

- None

4. Airport Improvement Program (AIP) - Noise Compatibility Land

- None

5. Sponsor-Donated Land

- None

F. FAA Releases of Grant Obligations:

On June 22, 1989, the FAA released the five parcels mentioned earlier containing 13.257 acres from grant obligations. Again, these are the parcels that were sold to the Florida Department of Transportation to accommodate Gratigny Parkway. These parcels were designated 150, 151, 152, 153 and 157. There were no other releases of grant obligations in the FAA’s files.

G. Federal Commitment and Investment

- Total Airport Improvement Program (AIP) Funding - \$21,640,966.00
- 3 ILS systems, 2 approach lighting systems, and various visual approach slope indicator systems
- Design/Publication of Instrument Approach Procedures: Runways 9L, 27R, 12, and 30

H. Airport Statistics (2004 Terminal Area Forecast)

Estimated Number of Based Aircraft – 300
Estimated Number of Operations – 130,000

VII. County’s obligations pertaining to use and disposal of airport property: Over the years, the County has accepted federal assistance in the form of funds and land transfers to assist in developing and protecting the airport. The following are the land-related obligations the County accepted:

A. Surplus Property

The County is obligated through quitclaim deeds to the terms and conditions listed in each, individual transfer document. These obligations require the land be used for airport purposes for the use and benefit of the public on reasonable terms and without unjust discrimination and without grant or exercise of any exclusive right. Also, the obligations include a provision prohibiting the use, leasing, or sale of the property for other than airport purposes without the written consent of the FAA. The FAA must also determine that use of released property will not adversely impact the airport. Also, general grant assurances 5, 24 and 25, contained in AIP development grants that have been accepted within the past 20 years, apply.

B. FAAP land Acquired Before December 31, 1967

At OPF, the obligations in FAAP grants that were carried out before December 31, 1967, have expired except for the provisions for compliance with civil rights requirements and the prohibition against exclusive rights. However, general assurances 5, 24 and 25 contained in AIP development grants, which have been accepted within the past 20 years, apply.

C. FAAP and ADAP Land Acquired After December 31, 1967.

If obligations in a FAAP or ADAP grant were still in effect at the time the County carried out an AIP grant after December 31, 1987, the land obligations in the 1988 AIP-07 grant also apply to land acquired under those FAAP and ADAP grants.

D. Land Donated to the Airport by the Airport Owner (County).

General grant assurances 4, 5, 24 and 25 contained in AIP development grants, which have been accepted within the past 20 years, apply.

VIII. Findings:

A. Exchange of County Parcels "A" and "C" for USCG Parcel "B"

The unsigned, no-cost agreement between these parties, circa 1993, provided the County would exchange Parcels "A" and "C" for Parcel "B." The USCG appears to be using the portion of Parcel C located on the west side of NW 44th Court. Their use of this area has not impacted any County-owned facilities. The USCG has not moved into the remaining portion of Parcel "C" where County roads and public apron areas exist. The County is interested in completing this exchange with the CG. It is recommended the County ask the USCG to transfer or release the unused portion of Parcel "C" to the County with the understanding that if a future need for expansion develops, a new agreement to be approved by the FAA will be fashioned. The FAA will likely require that a new agreement contain provisions for the USCG to compensate the County for the loss of civil aviation facilities, if compensation is appropriate. The FAA has not released Parcels 3A, 3B, "A" and "C" from Surplus Property and grant obligations.

The County should request the FAA take approval action on the past net transfers of fee title (3A and 3B) to the USCG and ask that these properties be released from Surplus Property and grant obligations. If the County's fee interest in Parcels "A" and "C" has been transferred, these areas will need to be released as well. On the County's federally obligated airports, we stress that FAA approval action is required before disposing of airport property or converting aeronautical property to a nonaeronautical use.

B. Nonaeronautical uses of airport property by the County or other agencies not approved by the FAA

1. Perimeter Highways and Opa Locka Canal:

It appears three County highways were developed around the perimeter of the airport subsequent to the 1961 transfer of the airport to the County. Also, Opa Locka Canal appears to have been moved to another position on the airport some time after Parcel 5 was bought under the 1966 FAAP Project 9-08-054-D603. The highway development appears to include:

- a. Expansion of Red Road (N.W. 57th Avenue) from a two-lane to a four-lane highway. This appears to have taken roughly 50 feet of airport property along almost the entire western edge of the airport,
- b. Extension and expansion of N.W. 135th Street along the south side of the airport between LeJune Road (37th Avenue) to Red Road, and
- c. Development of Douglas Road into a four-lane connector along the entire eastern side of the airport between N.W. 42nd Avenue and 37th Avenue.

The right-of-ways for these roads and for the Opa Locka Canal appear to be either entirely or partially on former airport property. The FAA has no record of releasing property for these purposes from grant or surplus property obligations.

While the airport does not appear to have been harmed by these changes since the roads provide improved access to the airport for aeronautical users and contribute toward higher land values for both aeronautical and nonaeronautical tenants, it is important to clarify when these actions took place and how much land is involved. It appears the FAA could have agreed with the use of airport property for development and improvements to roads and canals since they improve accessibility, property

values, and usability of the airport and may have found the value of land lost to these improvements was offset by the increase in access of airport, usable airport property, and land values. As corrective action, it is recommended the County formalize these changes to airport property by requesting the FAA release this land from federal obligations.

C. Other Non-Aeronautical Uses of Airport Property Not Approved By The FAA -

1. The FAA has not approved the arrangements between the County and the tenants or users of airport property for the large sewage pump station, the WASA easement, the prison, the parking areas in the Runway 9R runway protection zone, the organization that set up an athletic (cricket) field on the east side of the airport, and the aeronautical tenants that park nonaeronautical trailers and recreation vehicles on aeronautical lease-holds. It is recommended these agreements be formalized and submitted to the FAA for review.



RV In Hangar



Non-Aeronautical Trailers



Prison



Pump Station

The Arabian Nights Festival and other community uses and/or buffers or activities, to the extent practicable are subject to receipt of a fair market value return for the use of the land. On occasion, the FAA does concur with a community, interim use of airport property for a non-profit, non-aeronautical purpose. These proposed uses should be coordinated with the FAA.

A portion of the airport property located on the southeastern section of the airport has been determined of historical significance. We understand an archeological survey was performed on this section of the airport to meet requirements of the State Historic Preservation Office. We would normally expect the state to either release this area so development could continue or require that it remain protected for further investigation. We understand the County has met state requirements but that an organization with the County also has either formal, legal authority or informal authority over development on this archeological site as well as on the World War II era hangars near the current airport traffic control tower. We ask that the County explain what legal authority this local group has on the destiny of airport property and facilities and reevaluate the appropriateness of maintaining this local designation on the site as well as over the World War II era hangars.

2. Brothers to the Rescue. A nonaeronautical monument has been established on airport property next to LeJune Rd in memory of the Brothers to the Rescue. This memorial is not located now on prime aviation property and would have received FAA approval as an interim nonaeronautical use. However, corrective action is needed between the County and the Brothers to the Rescue organization to assure that should the current site be needed for airport purposes the memorial will be moved to another site subject to approval by the FAA. The agreement should state that airport revenues will not be used for the maintenance of the monument or to move the memorial unless a means of recovering the cost is established from nonaeronautical contributions or some other nonaeronautical source.

D. Leasing of Airport Property

Leaseholds – The County has either carried out or has under consideration three master leases. These leases have been in-place for a few years. During this land-use inspection, there was little to no development obvious on these properties. Also, the lessees have been relieved of paying a ground lease rate for the property within their respective control. For any interested party to get access to the airport for either an aeronautical or nonaeronautical purpose, they must negotiate with one of these master leaseholders.

In recent years, the FAA has conducted informal reviews under 14 CFR, Part 13 of allegations of unreasonable, discriminatory conditions being posed by the master lease arrangements. These leases are viewed as possibly forming conditions that would be the basis for potential conflicts with federal obligations about reasonable access, the prohibitions against exclusive rights, preservation of the County's rights and powers, and the airport being as self-sufficient as possible. As a result, MDAD and the

County have developed a heightened awareness of their federal obligations and some corrective actions are anticipated in this area. It is recommended that the County also establish current rates and charges for both aviation and non-aviation use of the Opa Locka Airport property based on current appraisals.

The external areas surrounding the perimeter of the airport have been almost completely developed. It would seem, without the benefit of a market survey, that if commercial development is going to continue to grow and prosper in this area, the airport is the last large, vacant area for potential development and growth. The demand for the use of airport property on the approach to Runway 9L for other than aviation use is reflective of this potential. The establishment of non-aviation use rates similar to those on the Miami Lakes area that abuts the airport on the west, can provide an opportunity for the County to maximize the economic development potential of the balance of the Opa Locka Airport and enhance the airport's self-sustainability.

It is recommended that these tenants' control of undeveloped areas be reduced to having no more than the amount of land needed for their own proposed development. The holding of lands by individual tenants in excess to this need, could result in 'land banking'. This is normally found to limit investment opportunities and discourage other potential tenants from negotiating directly with the County for immediate use of airport property.

D. ALP and Exhibit A Property Map

These documents should accurately reflect the airport's land inventory. The FAA representatives noted deficiencies. We recommend that the County update both of these documents as soon as possible. Corrective land use related actions involve (1) the inclusion of the Runway Protection Zone (RPZ) easements acquired to protect the ends of the runways, in particular on 9L/27R; (2) the future acquisition of an aviation easements needed on the northwest corner of the airport; (3) the losses of airport land due to road construction and due to the right of way utilized for the realignment of the Opa Locka Canal; (4) the inclusion of Parcel 1 (0.36 acres) on the southeast corner of the airport; and (5) the remnants left on the northeast corner and southeast corner when the N.W. 42nd-37th Avenue Connector was built.



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

Western-Pacific Region
Airports Division

Federal Aviation Administration
P.O. Box 92007
Los Angeles, CA 90009-2007

March 22, 2004

Robert D. Field
Economic Development Agency
Aviation Division
44-199 Monroe Street, Suite B
Indio, CA 92201

Dear Mr. Field:

**Blythe Airport (BLH)
Land Use Inspection**

This letter is in regard to the Federal Aviation Administration (FAA) inspection visit to Blythe Airport (BLH) on February 19, 2004. The FAA coordinated its inspection with the 5010 compliance inspection by the Caltrans Division of Aeronautics. We wish to thank you for the time and attention your staff devoted to our visit and for their cooperation during the inspection. This letter provides the findings and recommendations resulting from the FAA land-use inspection.

The inspection serves as a means for the FAA to perform surveillance and compliance oversight of federally obligated airports in order to assess if airport land uses comply with federal requirements. The inspections are part of a national program that is being conducted pursuant to Senate Report No. 106-55, dated May 1999. Congress directed that the FAA conduct land-use inspections at airports that have received federal assistance in order to detect if unauthorized land uses exist. The FAA must disclose in its reports to Congress the identity of all airports that have unauthorized land uses, along with the FAA's plan for eliminating those unauthorized uses.

During our inspection, we toured the airport to assess the current uses of airport facilities. We found that airport land uses did not fully comply with federal requirements. Of all the non-conforming land uses observed at BLH, most were previously brought to the attention of Riverside County (County). They are:

Auto-truck stop	Drag racing sand track
County fire station	Con-Way Transportation Services
County animal shelter	U.S. Border Patrol
Skeet and Trap Club	County Sheriff shooting range
Police use of terminal	

The FAA is concerned about non-aeronautical activities at federally obligated airports because non-aeronautical uses of airport land does not represent the highest and best use of obligated airport land. More importantly, airport sponsors pledge to operate airports in accordance with specific federal

standards in exchange for federal airport aid. In simple terms, this means making airports available exclusively for aeronautical activities and airport purposes in the service of civil aviation, commerce, and national security.

The non-aeronautical users at BLH are conducting activities whose operational needs do not require them to be located at an airport. We are aware that BLH has vacant land. However, the availability of vacant airport land does not justify a non-aeronautical use, nor does it override the County's obligation to operate BLH for airport purposes. Without proper planning and approval, non-aeronautical uses are not justified.

In previous correspondence to the County we pointed out that the grant assurances, as well as the surplus property conveyance deed, placed specific obligations on the County. Assurance 19, Operation and Maintenance, does not permit any activity that interferes with BLH's use for airport purposes. Assurance 22, Economic Nondiscrimination, requires that BLH be available for aeronautical activities on reasonable terms. One of the conditions in the conveyance deed stipulates that the airport will be used for airport purposes.

FAA policy does permit exceptions to the above requirements. In accordance with that policy, when airport land is not immediately needed for airport purposes, the FAA may concur with its use on a temporary basis for a non-aeronautical purpose. Interim use, as it is called, is based on the premise that there is no immediate aeronautical demand, and the land is presently in excess of the airport's current needs. Therefore, a temporary non-aeronautical use will produce revenue rather than leave the land vacant and unproductive. Furthermore, the non-aeronautical use will not displace aeronautical users who could make a higher and better use of the land.

Interim use does not relieve the airport sponsor of its federal airport obligations. Rather, interim use is a temporary arrangement. It must produce revenue for the airport. Most importantly, it must be approved by the FAA. Since it is temporary, it is subject to periodic reassessment by the FAA to determine whether or not the non-aeronautical use is still justified.

Assurance 25, Fee and Rental Structure, dictates that the airport must be as self-sustaining as possible. In accordance with this principle, whenever a non-aeronautical use exists, it must generate income for the airport based on the commercial fair market value of the property. Non-aeronautical users may not be given free rent or nominal rental rates. Compensation does not always have to be monetary. If non-aeronautical users provide tangible services to the airport, the value of those services may offset a portion of the fair market rental rate. However, reciprocal arrangements that permit tenant services to offset rent must be documented in a written agreement. The agreement should identify the tenant services, the value of the services, and the amount of rent that is being offset.

We are aware that many of the non-aeronautical activities at BLH have been there for many years. This long-term use may have given the mistaken impression that these non-aeronautical activities have become a permitted use of obligated airport land. However, the federal obligations established in the conveyance deed and grant assurances, requiring aeronautical uses of the airport, have never been waived. They still require that the airport be used for airport purposes. Therefore, the non-aeronautical uses represent a non-conforming use of the airport.

We first brought these non-conforming uses to the County's attention in 2000. In a letter to the County dated June 12, 2000, we advised the County to establish a cohesive plan for the airport's non-aeronautical uses so their presence on obligated airport land would comply with federal requirements, including the payment of fair market rent. We instructed the County to integrate a strategy for relocating, eliminating, or restricting non-aeronautical uses into the airport master planning process. We informed the County that non-aeronautical users must pay the commercial market value rent for the property they occupy. We advised the County that, henceforth, the non-aeronautical uses required FAA review and approval every three years to determine if they were still justified.

In addition, we pointed out that the airport property leased to Con-Way Transportation Services was more suitable for an aeronautical use. Con-Way was granted a lease on favorable terms that included an option to purchase its leasehold site. We advised that it was unrealistic to expect that Con-Way would be able to exercise an option to buy an airport parcel that is needed for aeronautical purposes. Furthermore, Con-way's presence is not contributing a tangible benefit to the airport or civil aviation. It may even be displacing potential aeronautical uses because of its proximity to the airfield.

Unfortunately, since 2000, the County has not implemented any corrective action measures to mitigate or eliminate the non-conforming uses at BLH. We have no evidence that all non-aeronautical tenants are paying market value rents. An Airport Master Plan was completed in 2001, and it does not contain a plan for the eventual disposition of all the non-aeronautical uses.

During the inspection, along with the above, we identified an airport maintenance shortcoming. Assurance 19, Operation and Maintenance, requires that the airport be maintained in a safe and serviceable condition at all times. We observed that the truck-auto stop property is littered with garbage and debris. It also appears that transient vehicles are using the property as a waste and refuse disposal site. Since the refuse is not being cleared and removed, winds are apparently blowing it towards the airfield, where it becomes a hazard to aircraft. The County is not exercising sufficient control to prevent a tenant from creating unsatisfactory conditions that are deleterious to the airport and its aviation users.

There is another airport land-use issue that requires reconsideration. The City of Blythe proposed to sublease an old abandoned building, along with five acres of land, to the First Composite Group (Group), d.b.a., the General Patton Army Air Museum. The Group proposes to establish an army air museum to store and display World War II memorabilia. We visited the Group's current leasehold property located at Chiriaco Summit Airport. Based on our inspection of the Group's property, we concluded that the Group does not operate an aviation museum. Therefore, the Group's tenancy would represent another non-aeronautical use of airport land at Blythe. As a consequence, the FAA objects to the proposed sublease agreement and does not approve of another non-aeronautical tenant at BLH.

To conclude, we are instructing the County to formulate a corrective action plan in accordance with the following guidance:

1. The plan should contain the actions the County will take to realign, eliminate, or relocate the non-aeronautical uses. This may include a

proposal identifying a non-aeronautical-use area that the FAA may approve in accordance with statutory requirements.

2. For all non-aeronautical uses, the County will prepare a statement for the FAA showing the amount of rent that each tenant is currently paying. If any of these users are providing services to the airport in lieu of rent, the statement will describe the services and the actual monetary value of the services.

3. If non-aeronautical users are to remain at the airport, the County will explain why each must be located at the airport, what benefit the airport derives from their presence, and evidence that the airport is being compensated with market rental payments.

4. If non-aeronautical users are paying no rent or below market value rent, the County will immediately impose a rental obligation on these tenants based on a fair market value assessment of the property.

5. Henceforth, non-aeronautical users who are allowed to remain on the airport will be subject to tri-annual reviews. The County will be required to justify their airport presence and obtain approval from the FAA for their continued use of the airport for non-aeronautical purposes.

6. The auto-truck stop should be directed to clean its leasehold property and keep it clean to prevent litter from migrating to the airfield.

7. If a new or revised proposal for an airport museum is contemplated, it will be submitted to the FAA for review and approval, which approval must be obtained before an agreement is executed.

We shall expect your reply containing the County's proposed plan and implementation schedule. Please mail the reply within 60 days after your receipt of this letter to:

Federal Aviation Administration
Airports Division, AWP-620.1
P.O. Box 92007
Los Angeles, CA 90009

In closing, be advised that Section 722 of Public Law 106-181 (April 5, 2000) amended 49 USC 47131 and requires, as part of the Secretary's annual report to Congress, the inclusion of a detailed statement listing airports that the FAA believes are not in compliance with grant assurances or other requirements with respect to airport land use. The report includes a description of the non-compliance issues, the timeliness of corrective actions by airports, and the actions the FAA intends take to bring the airport sponsors into compliance. Based on the Section 722 requirement, BLH will be included in the annual report to Congress. If the County chooses not to take suitable corrective action and the non-conforming conditions continue, the FAA may initiate action to enforce the grant agreements.

Sample Notification of Violation, Page 4

We look forward to your response. In the meantime, if you have any questions or wish to discuss this matter, please call me at (310) 725-3634.

Sincerely,

**Original Signed by
Tony Garcia**

Tony Garcia
Airports Compliance Specialist

Ellsworth L. Chan, Manager
Safety and Standards Branch

cc: Charles Hull
Tom Turner

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