



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

Western-Pacific Region
Office of Airports
Safety and Standards Branch

777 S. Aviation Blvd., Suite 150
El Segundo, CA 90245

February 22, 2022

Mr. Jeffrey V. Smith,
County Executive, County of Santa Clara,
70 West Hedding St., East Wing, 11th Floor,
San Jose, CA 95110-1770

Mr. James R. Williams,
County Counsel,
70 West Hedding St., East Wing, 11th Floor,
San Jose, CA 95110-1770

Subject: Request for Additional Information

Dear Messrs. Smith and Williams;

This letter is in reference to the Federal Aviation Administration (FAA) Western-Pacific Region's Part 13 investigation of alleged violations of certain grant assurances by the County of Santa Clara (County) at the Reid-Hillview (RHV) and the San Martin (E16) Airports. We are reviewing your January 11, 2022, and January 27, 2022 responses. We are also awaiting any arguments or information that the complainants may choose to offer.

The purpose of this letter is to request additional information related to the County's response.

- The County's January 11, 2022, response indicates that the County "negotiated" in good faith with its existing tenants when it decided to ban leaded aviation fuel, and the FBO's "voluntarily" agreed to the terms of revised or new leases. Yet in its September 27, 2021 letter to tenants, the County directed that all existing leases expire on December 31, 2021. The letter stated that effective January 1, 2022, the County was implementing a series of measures, including assuming management of all commercial fueling operations and ownership of all fixed commercial fuel tanks at Reid-Hillview. **Please provide a detailed explanation of the process and steps followed to "negotiate" with the previously existing fuel sales permittees and Fixed Based Operators. Also, identify which terms were revised and what options were given to the tenants in the negotiations with respect to the sale of fuel.**
- **Provide an accurate list of based aircraft for RHV and E16, including the FAA Registration number (N number) for each aircraft.** In conducting our research on this case, the FAA noticed that the number of based aircraft reported on the FAA Airport Master Record (FAA Form 5010) and the number of based aircraft reported to the FAA's Based Aircraft Database by the County are not consistent. Therefore, a clear and consistent understanding of the number of based aircraft, along with the Registration numbers, is needed as a data point for determining the impacts of the County's ban on the sale of low lead fuels on the users of the airports.

- In our December 22, 2021, letter, the FAA requested: “All property records related to land granted to the County from the United States or purchased or acquired by the County using funding from the United States (collectively “land grants”). Such records shall include copies of deeds, contracts for sale or purchase, and documents related to restrictions, assurances or pledges made by or agreed to by the County in consideration of such Land Grants including, but not limited to, resolutions or ordinances passed by the County Commission as part of, or related to, their acceptance of such land transfers and/or funding. For purposes of this request, the term “County Commission” shall include the Commission, any committee thereof, or any County board or authority having jurisdiction with regard to the airport.” This information was not included in your January 11th or January 27th letters. **We again request the County provide this information.**

Please be aware that the FAA received another complaint under 14 CFR Part 13 from Mr. Jose Mugerza dated February 7, 2020. Mr. Mugerza’s complaint reads as follows:

The County is not allowing the sale of 100LL fuel and has stated that my 1975 Cessna Cardinal can use the UL94 they are peddling. Both Cessna and Lycoming vehemently state, “DO NOT USE UL94,” yet the County is insisting that fuel will work in my airplane. I am at the mercy as I need a hangar for my plane and fuel to fly it. In addition, they do not allow me to store (more than 4 gallons) of fuel in my hangar. This puts a severe restriction and potential hazard in my way.

Mr. Mugerza’s complaint relates to the current Part 13 case; therefore, he has been added as a complainant to this Part 13 investigation. **Accordingly, we request the County respond to the issues raised by Mr. Mugerza.**

The determination of whether a specific aircraft may or may not use unleaded fuel is the responsibility of the aircraft manufacturer, engine manufacturer, FAA, aircraft operator, and ultimately the pilot-in-command of the aircraft. We have confirmed that Mr. Mugerza’s aircraft (N25LG) is not currently approved for any of the unleaded fuels.

Related to this matter, please provide the following information and documents:

- **All information relating to any attempt, practice, or policy of the County to regulate the type of fuel used by specific aircraft.**
- **A description of the procedures established by the County to ensure that aircraft are not mis-fueled with unleaded fuel.**
- **Clarify how the fueling implementation is being managed as of Jan 1st; and,**
- **Provide an updated schedule on when the County plans to take complete control of the fueling.**

Aircraft owners and operators have the right to self-fuel under Grant Assurance 22. Self-fueling means the fueling or servicing of an aircraft by the owner of the aircraft with his or her own employees and using his or her equipment. Self-fueling cannot be contracted out to another party. An aircraft owner may self-fuel using fuel obtained from any source, and an airport sponsor may not require the airport owner to purchase fuel from the sponsor. Self-fueling also differs from using a self-service fueling pump made available by the airport, an

FBO or an aeronautical service provider. **With this understanding, we request a copy of the County's rules and regulations applicable to self-fueling and an explanation of how the County's current ban on the sale of low lead fuel impacts or does not impact an aircraft owner's right to self-fuel using low lead fuel procured from off County airport sources.**

We request that you provide the foregoing information and documents within 10-days. If a rebuttal or additional information cannot or is not provided in a timely manner, the FAA may have to move forward with its informal determination in the absence of that information.

The Federal Aviation Administration plans to conduct a site visit to RHV and E16 sometime during the week of February 28 through March 4, 2022. The site visit will include a representative of the FAA's San Francisco Airports District Office and me. This visit aims to follow up on previously reported safety deficiencies and observe fueling operations. We will coordinate and make final arrangements for the visit with Mr. Eric Peterson.

If you have any questions, please contact my office at (424) 405-7303 or by email at Brian.Armstrong@faa.gov.

Sincerely,

Brian Q. Armstrong
Manager, Airport Safety and Standards Branch

Cc:
Mr. Eric Peterson
County of Santa Clara, Airports Administration
2500 Cunningham Ave.
San Jose, CA 95148

Mr. Walter Gyger
Owner, Tradewinds Aviation
2505 Cunningham Ave
San Jose, CA 95148

Mr. Josh Watson
Owner/CEO AeroDynamics Aviation
2650 Robert Fowler Way
San Jose, CA 95148

Mr. Michael McDonald
Pilot
1103 Timberpine Ct.
Sunnyvale, CA 94086

Mr. Paul Marshall
South County Airport Pilots Association
PO Box 1440
San Martin, CA 95046

Mr. Mark Baker
Aircraft Owners and Pilots Association
421 Aviation Way
Frederick, Maryland 21701

Mr. Jack J. Pelton
Experimental Aircraft Association
3000 Poberezny Rd
Oshkosh, WI 54903

Mr. Peter J. Bunce
General Aviation Manufacturers Association
1400 K Street NW, Suite 801
Washington, DC 20005-2485

Mr. James Viola
President, Helicopter Association International
1920 Ballenger Ave. 4th Floor
Alexandria, VA 22314-2898

Mr. Timothy Obitts
National Air Transportation Association
818 Connecticut Avenue, NW Suite 900
Washington, DC 20006

Mr. Ed Bolen
National Business Aviation Association
1200 G Street NW, Suite 1100
Washington, DC 20005

Mr. Glynn P. Falcon,
Law Offices of Glynn Falcon
PO Box 2470
Aptos, CA 95001

Squadron 2 Flying Club
2655 Robert Fowler Way
San Jose, CA 95148

Mr. Michael McClellan
Aperture Aviation
2500C Robert Fowler Way
San Jose, CA 95148

Mr. Jeffrey M. Marconet
JMM Aviation, LLC

2655 Robert Fowler Way
San Jose, CA 95148

Mr. Stephen McHenry, President
San Martin Neighborhood Alliance
PO Box 886
San Martin, CA 95046

Mr. Michael S. Luvara
812 Asbury Street
San Jose, CA 95126-1803

Mr. Christopher Luvara
1365 Buchanan Drive
Santa Clara, CA 95051

Mr. Jose Muguera
17881 Los Alamos Drive
Saratoga, CA 95070

Mr. John Carr
SCC Airport Commission
6055 Vilmar Avenue
San Jose, CA 95120

FAA San Francisco Airports District Office