



November 2, 2022

**VIA ELECTRONIC MAIL TO 9-AWA-AGC-Part-16@faa.gov**

Office of the Chief Counsel  
Attention: FAA Part 16 Docket Clerk, AGC-600  
Federal Aviation Administration  
800 Independence Avenue SW.  
Washington, DC 20591

Re: *Aircraft Owners and Pilots Association, et. al v. County of Santa Clara, California*  
Docket No. FAA-2022-1385


Dear Docket Clerk:

It was disappointing to see Santa Clara County's recent letter inappropriately sent to FAA personnel other than the FAA Part 16 Docket Clerk,<sup>1</sup> requesting dismissal of the Part 16 complaint prior to its docketing, especially when there is no legal basis for this request and the County continues to remain in violation of federal grant assurances.

The County's letter simply serves to document futility as there appears to be no reasonable prospect for practical and timely resolution of the dispute. Moreover, the County has admitted it received the 2021 exemption request from Aperture Aviation without any offer of evidence the County responded to it. The County has clearly and factually displayed an unwillingness to allow 100LL octane sales and self-fueling now by providers willing and able to do so. The County's hope for continued negotiations with the FAA will only allow for a continued noncompliance posture.

The Part 16 Complaint contains all that is required by 14 CFR § 16.27 and more, in pages of detailed facts, documents, affidavits, and other exhibits. If the FAA construes the County's letter as a motion to dismiss, we respectfully request the FAA also construe this letter as an answer to the motion to dismiss in accordance with 14 CFR § 16.26(b)(3). The County's letter is legally deficient as a motion to dismiss.<sup>2</sup> The assertion that a Part 16 complaint interferes with negotiation is not a basis for dismissal. Any offer or agreement to provide 100 octane unleaded fuel in the future does not correct current and ongoing noncompliance. The County's footnote statement that it "does not prohibit self-fueling and has taken no action to prevent Aperture Aviation from self-fueling, its aircraft" is false, as shown in the Part 16 Complaint exhibits including lease terms prohibiting self-fueling with 100LL and the fact the County prohibition on leaded fuels remains in place. AOPA and its co-complainants have met all standing requirements and should not be kept waiting while harm continues unabated since January 1, 2022.

Regards,

  
Justine A. Harrison  
General Counsel

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<sup>1</sup> The County's letter should be stricken because FAA rules state that documents filed under Part 16 shall be filed with the FAA Part 16 Docket Clerk. 14 C.F.R. § 16.13. Concerningly, the County disregarded these filing requirements and sent its letter directly to the FAA Chief Counsel and Director of Airport Compliance and Management Analysis. This action raises concerns as to 14 C.F.R. § 16.301, *Prohibited ex parte communications*, and 14 C.F.R. § 16.5, *Separation of Functions*.

<sup>2</sup> It fails to meet the requirements set forth in 14 CFR 16.13, 16.15, 16.19, and 16.26.

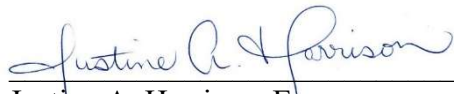
## Certificate of Service

I hereby certify that I have this day caused the foregoing Letter to be served on the following persons by electronic mail:

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Dated this 2nd day of November, 2022.



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