

MICHAEL N. FEUER
CITY ATTORNEY

October 18, 2019

Raquel Girvin
Western-Pacific Region Regional Administrator
FAA Western-Pacific Region
777 S. Aviation Blvd., Suite 150
El Segundo, CA 90245

Re: Request for Formal Action Mandating Compliance with Burbank Airport Standard Instrument Departure Procedures

Dear Ms. Girvin:

FAA recently conceded that air traffic controllers are directing pilots departing Burbank Airport to turn south of the tracks that were established and followed by departing planes prior to the Southern California Metroplex project. This southerly shift has never been subject to public notice, comment, or environmental review. It conflicts with FAA's 2017 publication of Burbank Airport departure procedures, which expressly relied on the continued use of the pre-Metroplex departure flight paths.¹

FAA may not legally allow this systematic deviation from the pre-Metroplex departure tracks. Although FAA has embarked on an environmental review of *potential* changes to departures at Burbank Airport, until that lengthy process is completed, FAA must ensure its air traffic controllers do not deviate from the pre-Metroplex departure tracks, other than for occasional and temporary safety and extraordinary operational needs. FAA is also cooperating with an informal regional task force but, like the environmental assessment process, that effort is examining *potential changes* to flight paths. Therefore, the work of the task force, which the City supports, is unrelated to the FAA's obligation to use pre-Metroplex departure flight paths until future changes are properly vetted and approved.

Accordingly, within 30 days of this letter, the City requests that FAA issue a Tower Order, Standard Operating Procedure, or other formal action mandating that air traffic controllers direct departing aircraft to follow the flight tracks that were modeled in the Environmental Assessment for the 2017 Departure Procedures, and thus correct the erroneous "southern shift" of the Runway 15 departure tracks.

¹ FAA promulgated the SLAPP ONE and OROSZ TWO RNAV Standard Instrument Departure Procedures ("2017 Departure Procedures"), as part of the implementation of the Metroplex project.

Background

FAA promulgated the 2017 Departure Procedures after completion of an Environmental Assessment and issuance of a Finding of No Significant Impact and Record of Decision (“ROD”) for the Metroplex project. The Environmental Assessment analyzed the environmental impacts of numerous Metroplex procedures. As to the SLAPP ONE and OROSZ TWO procedures in the 2017 Departure Procedures, the FAA analysis was based upon a conclusion that aircraft departing Runway 15 at Burbank Airport would follow the existing departure flight paths until joining the new RNAV procedures after a northbound turn.

Notwithstanding that conclusion in the Environmental Assessment, when the new RNAV procedures were implemented, the public almost immediately noticed a change in Burbank Airport flight paths. The FAA for months denied that any changes had occurred.

FAA recently informed the public of its acknowledgement of what the public has long known: that aircraft departing Burbank Airport are not adhering to the pre-Metroplex flight tracks evaluated by FAA when it issued the Departure Procedures. Specifically, in a July 2019 presentation, “Hollywood Burbank Airport Departures (*Past, Current and Proposed Procedures*),” FAA stated that “it appears the Runway 15 departure tracks from 2018 have shifted slightly south compared to the tracks from 2016.” In FAA’s Informational Briefing Executive Summary on July 30, 2019, it further elaborated that flight data “shows a southern shift for the southernmost BUR [Burbank Airport] departure flight tracks that coincide with the time Metroplex procedures were implemented.” Therefore, FAA air traffic controllers are directing aircraft away from the pre-Metroplex flight tracks that FAA previously determined would remain unchanged after implementation of the RNAV procedures.

FAA’s concession that departure flight tracks are deviating from pre-Metroplex flight tracks is precisely what elected officials and residents from affected communities have been telling FAA for many months – that real-world experience shows that aircraft departing Burbank Airport are deviating from the flight tracks that were existing when FAA implemented the 2017 Departure Procedures.

The southern shift of flight tracks following FAA’s implementation of the 2017 Departure Procedures was not an action that was analyzed when FAA issued the Departure Procedures. Consequently, the environmental impacts of the southern shift in flight tracks were not evaluated by FAA as part of its environmental review of the 2017 Departure Procedures, as required under the National Environmental Policy Act, 42 U.S.C. § 4321, the National Historic Preservation Act, 54 U.S.C. § 300101, Section 4(f) of the Department of Transportation Act, 49 U.S.C. § 303(c) and FAA Order 1050.1F. Therefore, the change has occurred without legally necessary environmental clearances or public review.

The Request for Formal Action

We are *not* seeking another lengthy environmental review, nor is such a review required here. We are simply seeking compliance with FAA conclusions in its 2017 ROD. Formal rulemaking is not required to eliminate the southern shift of departing flights and to return to the flight tracks established before the Metroplex project and that were included in the Environmental Assessment and incorporated in the ROD. The City’s requested actions are a feasible and direct measure to ensure FAA complies with the flight tracks that were presented to the public and analyzed and relied on by FAA in issuing the ROD. Since the southerly shift was implemented informally without formal rulemaking, the elimination of this

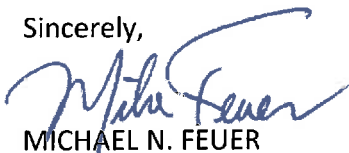
erroneous change can similarly be implemented administratively through a Tower Order, Standard Operating Procedure, or similar internal agency directive. If FAA believes that a petition for rulemaking pursuant to 14 C.F.R. § 11.61 is required to ensure immediate compliance with the ROD, the City requests that FAA notify us immediately and explain the basis for the agency's position.

The City recognizes that FAA is considering modifications to the 2017 Departure Procedures and has promised to evaluate the potential environmental impacts of, and alternatives to, potential changes to those procedures. FAA has not published any proposed implementation date for any changes, but it will be years away since the agency has just initiated the environmental documentation for any such changes in the last few weeks. Certainly, FAA may decide to consider adopting a southern shift as a possible action, among a number of alternatives the FAA might consider to the 2017 Departure Procedures. But that consideration must include proper evaluation of the potential environmental impacts of a southern shift and any other alternative departure procedure.

Similarly, the task force in which FAA is participating may consider changes in flight paths but such changes will require new environmental review, a process that is not required for restoration of flight tracks upon which the FAA relied in its earlier environmental review of the 2017 Departure Procedures. Today, we have separately submitted comments on the appropriate scope of the environmental review for potential changes to the 2017 Departure Procedures but this letter is independent of, and unrelated to, those comments.

In the interim, FAA must comply with the pre-Metroplex flight tracks analyzed in connection with the 2017 Departure Procedures. The City requests that FAA secure compliance through the issuance of a Tower Order, Standard Operating Procedure, or other administrative action that instructs air traffic controllers that they are required to direct pilots to follow the flight tracks that were established prior to the Metroplex project and that were modeled in the Environmental Assessment for the 2017 Departure Procedures. Immediate action is necessary to address non-compliance with the pre-Metroplex flight tracks and, therefore, the City requests that FAA take formal action within 30 days of this letter.

Sincerely,



MICHAEL N. FEUER
Los Angeles City Attorney