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February 22, 2007

David L. Bennett
Director of Airport Safety and Standards
Federal Aviation Administration
800 Independence Avenue, S.W.
Washington, D.C. 20591

Re: Proposed Access Restrictions at Santa Monica Municipal Airport

Dear Mr. Bennett:

The National Business Aviation Association (NBAA) finds itself in the position, once again, of opposing proposed access restrictions at KSMO. This time, the access restrictions take the guise of addressing putative concerns about the runway safety area (RSA) through the installation of an EMAS system on Runway 21 and the creation of declared distances for Runway 21 (300 feet) and Runway 3 (600 feet). The net effect of these measures would be to substantially reduce the useful runway length.

As discussed below, the proposal, if implemented, would have the intended effect of substantially reducing jet operations at the airport. To date, there has not been an adequate exploration of the need for such measures or of alternative measures if a need is perceived. NBAA urges the FAA not to permit these measures to proceed until a thorough analysis has been completed, presumably under ANCA and Part 161, for the following reasons:

1. The importance of KSMO to all of general aviation and to the business aviation community in particular cannot be overstated. There are approximately 400 aircraft based at the airport. For the twelve months ended June 30, 2005, there were 164,000 operations at the airport, and 100,000 of those operations were by itinerant general aviation aircraft. NBAA has six members basing eight aircraft at the airport, plus a charter operator and an FBO, and those members as well as all other members conducting operations in or around Southern California consider KSMO to be a critical asset.

2. NetJets has shared with us their analysis of the impact of this proposal. Basically, KSMO would become a unidirectional airport for medium and large business jets. The adjusted landing distance on Runway 3 would be below the minimum landing distances required for most jets with a maximum takeoff weight of 23,000 pounds or more.¹ While no aircraft would be completely foreclosed from landing on Runway 21, payload penalties would be required. Needless to say, an airport with a unidirectional runway twenty-four hours per day, and payload penalties on that runway, is of almost no use to a business jet operation that has to run on time. Even if Runway 21 is the

¹ The Citation Sovereign, with a MTO of 30,000 pounds, is the only exception. Older Gulfstream aircraft, namely the GII, the GIIB and the GIII, also would be foreclosed from landing on Runway 3.

more heavily used, the inability to use Runway 3 when required by local conditions would make flight planning for KSMO operations impossible. The result would be that these aircraft would be required to use other airports in Southern California. NBAA also would add that the use of declared distances is not an optimal operating procedure since it requires pilots to plan on the basis of arbitrary rather than actual runway length.

3. This is part of a long and unrelenting campaign by the City of Santa Monica to bar jet aircraft from serving the airport. That history is instructive since it underscores that what really is at issue this time is yet another proposed access restriction:

a. In the late 1970s, the City proposed confiscatory landing and departure fees for jet operations at the airport. The proposal was struck down in U.S. District Court. *Santa Monica Airport Ass'n v. Santa Monica*, 481 F. Supp. 927, 945 (C.D. Cal. 1979), *aff'd.*, 659 F.2d 100 (9th Cir. 1981).

b. In 1981, the City proposed to close the airport. The ensuing litigation resulted in the 1984 Settlement Agreement that recognized the binding nature of the Grant Assurances and under which the City agreed to “operate and maintain the Airport as a viable functioning facility without derogation of its role as a general aviation reliever . . . or its capacity in terms of runway length . . . until July 1, 2015.” *Id.*, §§ 2.a.i. and § 8. (emphasis added). The 1984 Agreement further recognized that SMO serves a “vital and critical role in its function as a general aviation reliever for the primary airports in the area . . . by diverting aircraft away from the air carrier airports and other heavily used airports located in the Greater Los Angeles Area.” *Id.*, § 2.b.i.

c. In 1985, the idea of shortening the runway and thereby limiting the aircraft that could use the airport first was discussed by city officials as part of a May 31, 1985 study entitled “Displaced Threshold Noise Test.” The idea was not pursued, in part because the displaced threshold would have had a minimal effect on perceived noise.

d. In 2002, the City tried again to restrict operations at the airport, this time with a proposal that would have barred any aircraft larger or faster than aircraft meeting the FAA’s Airport Reference Code B-II standard. The practical effect of the “Aircraft Conformance Program” (“ACP”) would have been to exclude at least 50% of the jet operations at SMO. NBAA voiced its strong objections to the ACP. The FAA issued a Notice of Investigation. The City came back with a further proposal to create an RSA by displacing the landing thresholds 300 feet at either end of the runway, arguing that this was consistent with operations by aircraft at or under the B-II standard. In a letter to the Airport Authority dated October 12, 2003, addressing all of the issues, you pointed out that the RSA is a “safety enhancement . . . not necessary for operational safety” and that “there is no regulatory requirement to meet RSA standards.” Significantly, you found that there was “no evidence that aircraft using SMO, of any design category, are being operated on this runway in violation of 14 C.F.R. part 91.9(a), which requires the pilot in command to comply with the operating limitations specified in the FAA-approved Aircraft Flight Manual (AFM) and issued under the applicable FAA airworthiness standards.” Accordingly, you found that implementation of the ACP was preempted, unreasonable, discriminatory and in violation of the 1984 Settlement Agreement and ANCA. Finally, you indicated a willingness to discuss with the City how technology and other measures might be used, including: “embankment fill to provide additional RSA land; aircraft arresting technology; limited reconfiguration of the runway consistent with other actions and with utility of the airport; and land use compatibility measures by the City.” The ACP then was withdrawn.

e. In 2003, the City proposed a new fee schedule to “support” an airport surface maintenance program. The fee schedule was regressive, imposing higher fees per landed weight as the size of aircraft increased. NBAA filed a Part 16 complaint, and in January 2005, the FAA issued an Initial Determination finding the proposed fees unlawful.

While the proposed means of implementation varied, the City’s agenda never was hidden. Every action was driven not by concerns about safety or economics but by a desire to close the airport to as many aircraft as possible. Such is the case with the current proposal.

4. There is a process for rationally dealing with such proposals, namely, ANCA. As you found in your letter of October 15, 2003 to the Airport Authority, the ACP, which then included the RSA, “as an artificial restriction on access to the airport by Stage 2 and 3 aircraft, would be subject to compliance with the Airport Noise and Capacity Act . . . [and] a proposal to implement the restriction would require compliance with the review and approval process set forth in 14 C.F.R. part 161, the agency regulations implementing ANCA.” *Also see, Millard Refrigerated v. Federal Aviation Administration*, 98 F.3d 1361 (D.C. Cir. 1996). The Part 161 process is a transparent, balanced exercise that requires all issues to be thoroughly examined and all alternatives to be seriously considered. Even if ANCA and Part 161 did not apply to a proposed restriction on runway usage, common sense would suggest that no action be taken until and unless the preconditions in your 2003 letter are satisfied and there was a consensus in the user community that such action should be taken.

5. If alternatives were considered here, they would include, but not be limited to, the following:

- a. Placing the EMAS system at a location and with a shorter bed that does not result in a significant reduction of runway length. The purpose of an arresting system is to make an existing runway safer, not to reduce the useful length of that runway.
- b. Acquiring additional land to the west of the runway.
- c. Pursuing in good faith other alternatives suggested in your letter of October 15, 2003.

NBAA appreciates the opportunity to offer these initial comments and is available to meet with you and your staff at any time.

Sincerely,



Steve Brown
Senior Vice President, Operations