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June 29, 2015

VIA EMAIL (9-ANE-BOS-NAV-4L@faa.gov)& U.S. MAIL

Department of Transportation/Federal Aviation Administration
New England Region
12 New England Executive Park
Burlington, MA 01803
ATTN: Allan Goldsher

RE: Comments on the Town of Milton on the Proposed Runway 4L RNAVs

To Whom It May Concern:

The Town of Milton (“Milton”) submits the following comments on the FAA’s proposed implementation of the Runway 4L RNAVs (“4L RNAVs”).

Milton strongly opposes the establishment of yet two (2) more RNAVs – in addition to the three (3) RNAVs that already exist – over its airspace, because of the already high number of overflights in Milton, because of the increased cumulative noise impacts to Milton which the FAA does not appear to be measuring appropriately, and because of the increased risks to human health from airplane emissions, which the FAA appears to have discounted. In addition, the FAA is ignoring new information about both the volume and level of community impacts and adverse effects to Milton residents and to all citizens in the overflight areas. Most troubling, it appears the FAA intends to establish and implement these new RNAVs without providing opportunities for the required community involvement, and without performing the required environmental analysis and consultation, avoiding its responsibilities under the National Environmental Policy Act (“NEPA”).

Ultimately, Milton seeks fairness and equity in the distribution of airplane operations and the impacts of those operations. We believe, based on data discussed in more detail below, that Milton receives a disproportionate impact of airplane operations in the Boston-Logan area. Milton is a predominantly residential community with a population of 27,000. Comprised of only 13.3 square miles, Milton bears the brunt of heavy air traffic and three (3) RNAVs (4R, 27 and 33L), which is far more than any surrounding community except for the much larger City of Boston, in which the airport is located. The skies over Milton are already saturated with too many airplanes, often from very early morning until very late at night. Implementation of two

new RNAVs over Milton will increase the existing inequity, and we request that the FAA utilize the RNAV process to remedy, rather than to perpetuate this problem.

1. Community Involvement and Notification. The FAA's Order 7400.2K, Air Traffic Organization Policy, "Procedures for Handling Airspace Matters" (July 24, 2014) includes as Appendix 10 the FAA's "Community Involvement Policy." That Policy states:

The Federal Aviation Administration (FAA) is committed to complete, open, and effective participation in agency action. The agency regards community involvement as an essential element in the development of programs and decisions that affect the public.

The public has a right to know about our projects and to participate in our decision making process. To ensure that FAA actions serve the collective public interests, all stakeholders will have an opportunity to be heard. Our goals are:

To provide active, early, and continuous public involvement;
To provide reasonable public access to information;
To provide the public an opportunity to comment prior to key decisions;
and
To solicit and consider public input on plans, proposals, alternatives, impacts, mitigation and final decision.

We applaud this Policy, and the rationale behind it, which states "The first step in meeting the needs of the public is to understand the public's needs. Community involvement lets the agency know what the citizens think about our activities. *Through community involvement, we will broaden our information base and improve our decisions.*" Order 7400.2k, Appendix 10 (emphasis added). We agree that broadening the FAA's information base about the impacts its actions have on surrounding communities will, ultimately, improve the decisions coming out of the FAA for the agency, its constituents, and the public who are impacted by FAA actions.

We urge the FAA to comply with the Policy, and all of the tasks identified in the Policy, including the following:

- a. identify and involve the public and to consider specific concerns;
- b. use public involvement techniques designed to meet the diverse needs of the broad public, including not only interested groups and the general public, but individuals as well;
- c. ensure FAA planning and project managers commit appropriate financial and human resources to community involvement;
- d. sponsor outreach, information, and educational assistance to help the public participate in FAA planning, programming, and project development activities;
- e. ensure key personnel are trained properly in community involvement techniques and methods; and
- f. develop and evaluate public involvement processes and procedures to assess their success at meeting our goals.

It is our experience to date, and has been the experience of other communities, including, for example, the City of Phoenix, Arizona that the FAA does not and has not complied with the Policy and the tasks for the agency set forth above. The FAA has failed to provide meaningful opportunity for public input into the RNAV implementation process, and has ignored or delayed responding to requests for information sharing and direct communication with impacted communities. Specifically, the FAA has consistently refused to meet with Milton residents and officials to discuss the specific impacts from the ongoing RNAVs implementation in Milton, and to discuss ways to work around those impacts. We have been asking for a meeting with the FAA and Massport to discuss the inequitable distribution of flights over Milton, and the failure to properly utilize the PRAS system for over a year, since April 2, 2014. We have never received a response to that request.

In addition, in January 2015, Congressman Stephen Lynch requested Administrator Huerta direct the FAA New England Regional Office to set up a meeting with Milton officials and residents. In April 2015, that request was refused, citing a concern about showing “deference” to one community. Such a response is wholly insufficient. A meeting with one of the impacted communities would not “defer” to that community, but would demonstrate that the FAA takes its own Policy, and requirement of community involvement, seriously.

The May 18, 2015 meeting held by the FAA was useful only in a limited way. First, the number of permitted attendees was extremely limited. For example, Milton was not allowed to bring Town Counsel to the meeting, even after it made a specific request to do so. While phone and internet participation were provided for, it is simply a different experience from being “in the room.” The meeting was not sufficiently noticed, or planned, and there was not enough notice to allow participants to fully prepare for the meeting. The venue was too small to hold all of the interested parties, and requests to change to a larger venue were ignored. There was very limited opportunity to ask questions, the promised follow-up to questions submitted in writing after the meeting was delayed, and the responses have, in many instances either been vague or referred back to documents previously introduced at the May 18, 2015 meeting and thus were entirely unhelpful. The FAA certainly knows the issue of RNAV implementation is important to multiple communities and officials, and should have prepared better by providing more notice, a larger room, and providing time for questions and answers at the meeting, as well as providing the promised follow-up on questions submitted at and after the meeting in a timely and substantive manner.

2. NEPA Requirements. Under the National Environmental Policy Act (“NEPA”), the FAA is required to evaluate the potential environmental effects of projects before “undertaking a major federal action which could significantly affect the quality of the human environment.” 42 US § 4332(2)(C). In addition to NEPA and the regulations implementing NEPA, the FAA has established its own regulations which set forth the process by which an Environmental Impact Statement (“EIS”) or an Environmental Assessment (“EA”) must be conducted and the results evaluated. FAA Order 1050.1E CHG 1 (“Order 1050.1”) updates “agency-wide policies and procedures for compliance” with NEPA and its regulations. The Order applies to actions directly undertaken by the FAA and those where the FAA has sufficient control or responsibility to condition the license or project of a non-FAA entity.

Under Order 1050.1, section 311, certain actions that establish, modify, or apply air traffic and air space procedures are “categorically excluded” from environmental review under NEPA. We understand that the JetBlue testing of the proposed 4L RNAV was conducted under categorical exclusion 311n, which applies to:

tests of air traffic departure or arrival procedures conducted under 3,000 feet above ground level, provided that: (1) the duration of the test does not exceed six months; (2) the test is requested by an airport or launch operator in response to mitigating noise concerns, or initiated by the FAA for safety or efficiency of proposed procedures; and (3) test data collected will be used to assess operational and noise impacts of the test.

In choosing to conduct the JetBlue testing under categorical exclusion 311n, the FAA failed to review, properly evaluate, and comply with its responsibilities under section 304 of Order 1050.1, Extraordinary Circumstances.¹ Where extraordinary circumstances are present, it is not appropriate to rely on a categorical exclusion, and an EA or EIS must be completed.²

Specific to Milton, it is clear that there are extraordinary circumstances present. First, the ongoing RNAVs implementation is disruptive to and within Milton. As the data set forth below indicates, there has been a 25-fold increase in noise complaints recorded from Milton since 2012. That disruption (and the number of complaints recorded) will only be exacerbated by the implementation of two more RNAVs over Milton. Also, Milton has several schools, which are highly sensitive communities, and which are under the concentrated RNAV flight paths and impacted by the ongoing RNAV implementations.

The impacts of airplanes on communities are “highly controversial.” As well as the impacts already discussed, more data has been provided which indicates airplane noise in overflown communities disrupts sleep patterns which results in adverse human health impacts. The noise from airplane overflights also negatively impacts property values. Fewer buyers are willing to purchase a home in an area with known noise impacts, and prices can be suppressed.

Anecdotal data from Milton residents indicate that the noise from airplanes in Milton is clearly heard above background noise in both commercial and residential areas. Additionally, these noise events disrupt conversations both indoors and outside, and disrupt sleep. As elected officials, we hear frequently from Milton residents who suffer from interrupted sleep, anxiety

¹ 2010 Final Guidance from the Council on Environmental Quality concerning the use of categorical exclusions requires that agencies applying established categorical exclusions to agency actions must document that there were no extraordinary circumstances precluding the proposed action. 75 Fed. Reg. 75628, 75636 (December 6, 2010).; see also Section 213(c) of the FAA Modernization and Reform Act of 2012. That was not done in the instance of the proposed 4L RNAV.

² Extraordinary circumstances can include effects on the quality of the human environment that are subject to a substantial dispute as to the size, nature, or effect of a proposed Federal action. The effects of an action are considered “highly controversial” when reasonable disagreement exists over the project’s risk of causing environmental harm. Opposition by a local government, or a substantial number of persons affected by the action, should be considered in determining whether or not a reasonable disagreement exists. See Order 1050.1 at paragraph 304i.

and a reduced quality of life because of the noise pollution caused by very frequent – and some days continuous – flights over Milton at low altitudes. The seriousness of the health problems that three (3), let alone five (5), RNAVs pose for Milton cannot be overstated. Finally, there is also anecdotal data that housing prices and housing sales are being impacted by airplane noise. Given the extensive community complaints, the media coverage, and attention generated by this issue (including attention given by our state and congressional representatives), it is impossible to conclude that the further implementation of RNAVs over Milton (or within the Boston-Logan airspace generally) is not “highly controversial.”³

Accordingly, extraordinary circumstances do exist, and NEPA requires that the FAA conduct a full assessment of the environmental impacts of the implementation of the proposed 4L RNAVs and any other RNAVs which overfly Milton, up to and including the preparation of a full Environmental Impact Statement. We request that you cease and desist from implementing any RNAVs that overfly Milton unless and until the cumulative impacts of these RNAVs and the extraordinary circumstances are appropriately addressed under NEPA.

3. Community Impacts and Failure to take into Account Cumulative Impacts. The FAA’s process to date has failed to take into account the cumulative impacts of the ongoing RNAVs implementation. Instead, the FAA is evaluating each new RNAV in isolation. Perhaps that method makes sense in a community that either is not already burdened with air traffic or does not already have an RNAV over it. But, in the case of Milton, the FAA’s method is wholly inappropriate. No community in the Greater Boston area (except for the City of Boston, in which the airport is located) is subjected to the number of RNAVs that fly over Milton. Given Milton’s unique circumstances, the FAA should and must analyze the cumulative impact of all five (5) RNAVs that either already fly over or are proposed to fly over Milton, and not only the impact of the proposed 4L RNAV.

Milton is currently impacted by the ongoing overuse of Runways 4R (which already has an RNAV) and 4L and the RNAVs for Runways 27 and 33L, which were implemented in 2013. Currently proposed are two new RNAVs for Runway 4L, which would bring the total number of RNAVs for Milton to five (5) (which, again, is unprecedented in the suburban communities surrounding Boston). Complaints on the Massport complaint line have increased for Milton from an average of 9 per month in 2012, to an average of 160 per month in 2013, to an average of 222 per month in 2014. That represents a *25-fold increase in noise complaints.*⁴ Even more troubling, the noise complaints are not just limited to the summer months, but continue growing in volume in every month of the year as the Boston Logan Airport throughput increases because of routing efficiencies due to the implementation of RNAV procedures. Of the 29 months of

³ The FAA recognized this point when it conducted an EA for the implementation of the Runway 33L RNAV at Boston Logan, stating “increases in noise . . . has the potential to be highly controversial on environmental grounds and may be the subject of extraordinary circumstances precluding the use of a categorical exclusion.” Experience in Phoenix, Chicago, Charlotte, and Atlanta confirms this conclusion.

⁴ Noise complaints for 2015 have only been tabulated through May, and average 132 monthly. However, the months of greatest number of complaints are June, July, August, and September. So far, the number of complaints recorded in 2015 has been similar to the number of complaints in January-May of 2014 and have greatly exceeded the number of complaints recorded in January-May of 2013 and 2012.

complaint data recorded since 2012, the number of complaints recorded in each month except for five (mostly winter) months, has exceeded the total number of complaints recorded in 2012.

The FAA continues to ignore the increased complaint data, and continues to repeat to Milton and other affected communities that there is no increased noise impact from the RNAV implementations. That simply is not true, given the increased frequency of complaints recorded, and data provided by Milton residents. As discussed above, data from Milton residents demonstrates that the noise from airplanes in Milton is heard above background noise in residential areas, disrupts conversations both indoors and outside, disrupts sleep, and impacts property values.

In the documents supporting the proposed implementation of the 4L RNAV, JetBlue claims that the existing land use patterns which will be overflowed are “mixed residential, commercial, and open space.” However, the vast majority of the land use in Milton under the 4L RNAV is residential. In addition to many single family and multi-family homes, the area under the 4L RNAV in Milton includes a large housing development for senior citizens, a nursing home, Curry College and three elementary schools. Combining increased throughput and residential neighborhoods increases the impact of aviation on those neighborhoods. The FAA has not sufficiently evaluated these impacts. Moreover, the Fowl Meadow and Ponkapoag Bog, which is an “area of critical environmental concern,” would also lie under the 4L RNAV.⁵

This problem is exacerbated by the FAA’s use of outdated data and methodology, specifically, the reliance on the DNL measure in assessing community impacts and the need for noise mitigation. This measure is outdated and inadequate. It does not address the acute highs in airport noise impacts actually experienced by residents, but lumps all noise together in 24-hour averages. Milton is not alone in this contention. That this measure is inadequate to measure impacts particularly in metro areas surrounding airports is a significant issue being raised by communities around the country, including New York City, Chicago, Los Angeles, and Phoenix.

We request that no further RNAVs be implemented which overfly Milton, unless and until the DNL data is updated and the actual community impacts and cumulative impacts to Milton are appropriately analyzed, that data shared with the impacted community, and a further opportunity for comment provided.

4. Fairness in the Distribution of Airplane Overflights. We understand that the Boston Logan Airport Noise Study Phase III (“BLANS III”) is evaluating runway use measures to be included in a new runway use program that will eventually replace the Preferential Runway Advisory System (“PRAS”). PRAS was developed to help ensure an equitable distribution of the noise impacts of runway use on surrounding communities. Despite the PRAS system, the data demonstrates that Milton receives a grossly disproportionate share of airplane traffic, and accompanying noise.

⁵ The Massachusetts Secretary of Environmental Affairs determined that the Fowl Meadow and Ponkapoag Bog is an area of critical environmental concern in 1992.

Under the PRAS system, Runways 4L and 4R should be used approximately 21.1% of the time (PRAS Equivalent Operations). Based on prevailing winds (from the NE), Runways 4L and 4R should be used approximately 18% of the time (How Logan Operates, Figure 6). However, based on the Volpe data presented at the May 18, 2015 meeting, Runways 4L and 4R receive 39.8% of the usage (Volpe, Airport Configurations for Noise Analysis, based on 2010 Massport data analysis of 2009 runway operating configuration logs). Runways 4L and 4R are already being substantially overused, in a manner that increases the noise and other impacts on Milton and other communities under 4L and 4R.

We request that no new RNAVs be implemented for either 4L or 4R until such time as the BLANS III evaluation is complete, and new testing has been done which incorporates those recommendations, so that the impacts of airplane noise are more equitably distributed through the surrounding communities. This request is consistent with the FAA's responsibilities under Order 1050.1 where noise impacts and the cumulative impacts from airplane operations, are to be evaluated when implementing any new RNAV. This request is also consistent with the goals of the BLANS Phase III, and why the BLANS process was convened.

In addition to strongly opposing two new RNAVs, we also hereby request the FAA's immediate assistance in alleviating the substantial burdens that the FAA's implementation and overuse of the 4R RNAV and the implementation of the 27 and 33L RNAVs have already placed on Milton residents. As elected officials who represent residents who are suffering from severe noise pollution and health risks caused by three RNAVs over Milton, we call upon the FAA to cease and desist the overuse of the 4R RNAV and to distribute air traffic in a much more equitable manner. Moving air traffic from the 4R RNAV on the eastern side of Milton to a new 4L RNAV on the western side of Milton is not an acceptable solution to a very serious problem. Compared to most of our surrounding communities, Milton is unduly burdened with air traffic. The number of RNAVs flying over Milton is inequitable and unjust. Consistent with our April 2014 request, and Congressman Lynch's January 2015 request, we ask that a senior regional representative of the FAA meet within the next thirty (30) days with the Chair of our Board and our Town Administrator to discuss remedial measures that can be taken to lessen the cumulative impacts that the RNAVs are having on Milton's residents.

5. Public Health Impacts from Airplane Engine Emissions. It has recently come to our attention that the United States Environmental Protection Agency ("EPA") is going to be implementing a new rulemaking process to set forth standards for emissions from airplane engines. The EPA administrator intends to make a finding that emissions of carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride from engines used in commercial aircraft endanger the public health and the environment.

Further, there is data available which demonstrates that aircraft emissions, particularly of fine particulates impacts public health directly, by depositing particulates into the lungs and indirectly, by contributing to ozone and smog. FAA's own analysis of aviation emissions cites to research that indicates "fine particulate matter is responsible for the majority of the health risks from aviation emissions."⁶ These particulates contribute to increased heart and lung disease,

⁶ Aviation Emissions, Impacts & Mitigation: A Primer (FAA, Office of Environment and Energy), January 2015.

including increased hospital admissions, emergency room visits, and work absences. Children and the elderly are especially vulnerable to exposure to fine particulates. This fine particulate exposure is increasing in Milton, from an increased number of arriving aircraft, flying at less than 3000 feet over our town, on the 4L and 4R RNAVs.

We request that no RNAVs be implemented which overfly Milton, unless and until the human health impacts, particularly related to fine particulate emissions are appropriately evaluated, that data shared with the impacted community, and a further opportunity for comment provided.

6. Sharing Information. The May 18, 2015 public meeting indicated that not only is the FAA considering implementing the Visual 4L RNAV tested by JetBlue in 2014, but it is considering the implementation of a GPS based (or IFR) RNAV for 4L. The May 18 meeting was the first time anyone in Milton was made aware of this second proposal for 4L. Milton has not been properly notified about the second RNAV, and it has not been tested, as the JetBlue RNAV was. Not even the Logan CAC was notified about the GPS procedure until shortly before the May 18 meeting.

We understand that the approach plate for IFR 4L RNAV has not yet been finalized for publication and public release. This additional proposed RNAV for Runway 4L, still mostly undefined, with absolutely no notice to impacted communities, is yet another failure of the FAA to comply with its requirements under Order 700.2k and under NEPA. All of our comments set forth above for the 4L RNAV tested by JetBlue apply to the IFR RNAV for 4L as well.

We request that any implementation of the second 4L RNAV be halted, until the route itself is finalized, and until the FAA complies with its Community Outreach and environmental analysis obligations, which includes allowing for additional comment by impacted community members.

Finally, we request that we be provided written notification by the FAA of any final decisions or final agency action to implement either of the 4L RNAVs, and that you share this information with the public at large.⁷ Please direct this correspondence to our counsel, Attorney Karis L. North, Murphy, Hesse, Toomey & Lehane, 300 Crown Colony Drive, Suite 400, Quincy MA, 02169, 617-479-5000. Attorney North may be reached on email at knorth@mhtl.com.

⁷ CEQ recommends that agencies publish information about their claim of categorical exemption and NEPA compliance “particularly when there is a high level of public interest in a proposed action,” as there is here. 75 Fed. Reg. at 75636.

We appreciate the opportunity to comment on the proposed 4L RNAV, and we look forward to your responses to our comments, and to finally scheduling a meeting within Milton to discuss and address these issues.

Sincerely,

Board of Selectmen of the Town of Milton

J. Thomas Hurley
J. Thomas Hurley, Chairman

David T. Burnes
David T. Burnes, Secretary

Kathleen M. Conlon
Kathleen M. Conlon, Member

cc: Congressman Stephen F. Lynch
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