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VIA E-MAIL (9-AJO-LAX-COMMUNITY-INVOLVEMENT@FAA.GOV)

Federal Aviation Administration
Operations Support Group
Western Service Center
2200 216th Street
Des Moines, Washington 98198

Re: Comments on the Draft Environmental Review for Amendments to Area Navigation

Dear Sir/Madame:

The following constitute the comments of the City of Culver City ("Culver City" or "City") on the Draft Environmental Review for Amendments to Area Navigation (RNAV) Arrival Procedures, HUULL, IRNMN, and RYDRR at Los Angeles International Airport ("Draft Environmental Review").

I. EXECUTIVE SUMMARY

As a threshold matter, Culver City finds the contemplated use of a Categorical Exemption ("CATEX") from the requirements of the National Environmental Policy Act, 42 U.S.C. 4321 et. seq. entirely unsupported by law and unjustified in fact.

As acknowledged by the Federal Aviation Administration ("FAA"), proponents of the Project, enhanced environmental review is required when the action involves any of the circumstances set forth in FAA Order 1050.1F, paragraph 5-2(b), and has the potential for a significant impact. FAA then ignores those instructions and proceeds to dismiss the palpable impacts reported in its own Draft Environmental Review as outside the scope of any "Extraordinary Circumstance", and, thus, insufficient to warrant any further environmental review, leading to the inevitable conclusion that a CATEX is appropriate. In doing so, FAA ignores, or attempts to avoid, the text of its

own orders and its own environmental conclusions, and, thus, the inevitability of further, more complete, environmental review.

II. FAA'S RELIANCE ON THE ABSENCE OF ANY EXTRAORDINARY CIRCUMSTANCE IS UNJUSTIFIED

FAA's own Draft Environmental Review belies its reliance on the absence of "Extraordinary Circumstances", listed on p. 9, to justify the use of a CATEX. FAA does not, and cannot, claim that environmental impacts will not be created by the project, but simply that they are not "extraordinary". FAA's claims cannot withstand scrutiny.

A. The Reduced Altitude of the Arrival Routes Will Cause Impacts on Noise Levels in Noise Sensitive Areas

Contrary to FAA's claim the revised procedures will have impacts on noise levels in densely populated, often low-income, communities, historic resources, and remaining open spaces in communities surrounding LAX. On page 11 of its Draft Environmental Review, FAA purports to detail the 2018 amendments to the named procedures that are the subject of the Environmental Review. In doing so, FAA first states that "procedure altitudes were changed to deconflict with aircraft transitioning from the enroute airway structure and ensure separation from adjacent arrival aircraft". Leaving aside the implication that, before the changes, arriving aircraft were "in conflict", FAA goes on to assert that "the altitude restrictions" are not considered "altitude changes".

FAA is relying on a "distinction without a difference" to bail itself out. Although its Draft Environmental Review sets forth in detail the various changes in altitudes of the named procedures, FAA continues to insist that these are simply "restrictions" on the available altitudes, without noise impacts, and does so without any operational analyses substantiating that claim, above and beyond that set forth in the long superseded 2016 Environmental Assessment for the so-called "Metroplex" Project. Draft Environmental Review, p. 6, Background.

Moreover, in their challenge to the implementation of subsequent changes to the HUULL, IRNMN, and RYDRR Arrival Procedures, Petitioners Cities of Los Angeles and Culver City pointed out that FAA's claim of compliance with the new "Restrictions" is belied by the evidence; and that, in fact, aircraft are approaching at a substantially lower altitude than the "Restrictions" purport to allow, as low as 4800 ft. over densely populated areas below. See e.g. Stephen M.

Dickson v. FAA, Petitioner City of Los Angeles Opening Brief, p. 40, ER94, Record Mot., Attach. 2, Exhs. A-D.

In addition, FAA can no longer rely on the deference bestowed by this Court under Chevron V. NRDC, 467 U.S. 737 (1984), as it has in the past. Absent significant evidentiary support, lacking here, FAA can no longer rest on the certainty that, because it is the Agency delegated by Congress with the responsibility to make technical determinations in the Airspace system, it will be given a pass for the lack of justification for those decisions in the required environmental review. See e.g. Loperbright v. Raimundo, Case No. 21-5166 (to be heard by the United States Supreme court in Jan. 2024).

B. The New Arrival Routes Will Have an Adverse Affect, Not Only on Noise Sensitive Areas, but also on Cultural Resources

In the event there were any question about what constitutes a "Noise Sensitive Area", one need only refer to Draft Environmental Review, p. 21, Section 4.1.2, That section states, in pertinent part, "normally, noise sensitive areas include residential…educational, health and religious structures and sites" as well as "parks, recreational areas…and cultural and historic sites." See also FAA Order 1050.1F, section 11-5. Culver City provided FAA with a full list of the numerous schools, hospitals and churches, as well as cultural and historic sites, located within its jurisdiction, thus clearly establishing the existence of "noise sensitive uses". See e.g. attachment of 14 historic sites designated by Culver City.

Moreover, "the compatibility of existing and planned land uses with an aviation and aerospace proposal is usually associated with noise impacts…The impact on land use, if any, should be analyzed and described under the appropriate impact category." Draft Environmental Review, p. 41, section 4.2.9. Nevertheless, FAA dismisses the issue of noise impacts on land uses, including churches and schools, as well as the iconic Culver Studios, by opining that "none of the resources reviewed have quiet as a generally recognized feature or attribute", nor are they located in areas that are considered to have quiet as a setting due to the presence of industrial and commercial developments ….Draft Environmental Review, p. 40, Section 4.2.8.4. Thus FAA, without further noise analysis, assumes that the existing noise levels are significant (above the level of 65 DNL), even without the addition of noise from low-flying aircraft.

This groundless assumption forms the basis for the claim that "the results of the noise analysis [not extant in the Draft Environmental Review] indicate that no significant or reportable noise impacts are expected to result from the

implementation of the project." Draft Environmental Review, p. 50, Section 4.2.11.b.

C. FAA IGNORES THE POTENTIAL FOR IMPACTS ON ENVIRONMENTAL JUSTICE

Despite the fact that FAA has not established a "significance threshold for Environmental Justice", Draft Environmental Review, p. 51, Section 4.2.11.2, it concludes that "An impact related to Environmental Justice is not anticipated." id., Section 4.2.12.2b, allegedly because "changes in noise exposure levels are below the threshold of significance for implementation of the action." Id. FAA thus refers to a "level of significance" that has not been established; based on the purported altitude of operations that have not yet been evaluated; and without study of, or reference to the minority and/or low-income populations that will be overflown at lower altitudes, as confirmed by the evaluation performed by the City of LA and cited above. Absent such an in-depth evaluation, FAA must evaluate the Project's impacts on Environmental Justice, and cannot rely on the absence of such impacts to justify the choice of a CATEX.

D. THE DISPUTE OVER THE CHALLENGED ARRIVAL ROUTES IS PART OF A CONTINUING "HIGH CONTROVERSY'

FAA asserts, in its Draft Envir. Review, Section 4.2.15a, that "No environmental impacts were identified in connection with the action during the course of this environmental review, and so, although further opposition is expected, controversy on environmental grounds is not anticipated." This claim runs directly counter to FAA's own guidance. For example, FAA Order 7400.2, Section 32-2-1, instructs that where, as here, "route altitudes are increasing or decreasing", from the altitudes specified in the 2016 Metroplex environmental review, that is a factor that must be considered in the decision to prepare a CATEX. Those decreases in altitude of the HUULL, IRNMN, and RYDDR arrival procedures are even more notable here, because they take place principally over heavily populated, often minority occupied, frequently historical areas that are already adversely impacted by existing levels of operation.

In short, the three lawsuits previously filed, regarding the new procedures and their potential impacts since 2016 should tell the story of on-going controversy which should independently be sufficient to eliminate the option of a CATEX and require complete, and stringent, environmental review which is absent here.

Very truly yours,

BUCHALTER
A Professional Corporation

Barbara Lichman

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