

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

_____)	
SPOKANE AIRPORT BOARD,)	
)	
<i>Petitioner,</i>)	
)	
v.)	
)	
MICHAEL P. HUERTA,)	No. 13-71172
ADMINISTRATOR,)	(consolidated with Nos.
)	13-71133, 13-71177, 13-71178,
AND)	13-71179, 13-71181)
)	
FEDERAL AVIATION)	
ADMINISTRATION,)	
)	
<i>Respondents.</i>)	
_____)	

**MOTION FOR LEAVE TO INTERVENE
OF THE CITY OF BATTLE CREEK**

Pursuant to Rule 15(d) of the Federal Rules of Appellate Procedure, the City of Battle Creek, Michigan (“Battle Creek”) respectfully requests leave to intervene in the above-captioned Petition for Review of the decision of Respondent Federal Aviation Administration’s (“FAA”) to close air traffic control towers currently funded by the federal contract tower program.

Petitioner Spokane Airport Board (“Spokane”) filed the Petition for Review in this case in the United States Court of Appeals for the District of Columbia Cir-

cuit on March 25, 2013. By an order of the United States Judicial Panel on Multi-district Litigation, the Petition for Review was transferred to this Court on April 3, 2013, and consolidated with five other petitions challenging the same agency action. Like Spokane's Felts Field, Battle Creek's W.K. Kellogg Airport is also on the list of towers slated for closure, and Battle Creek respectfully seeks leave to intervene in support of Petitioner to advance its own interests in overturning the FAA's unlawful decision.

BACKGROUND

Battle Creek owns and operates the W.K. Kellogg Airport. By letter dated March 5, 2013, the FAA informed 189 airports, including Spokane's Felts Field and Battle Creek's W.K. Kellogg Airport, that they met the agency's newly announced criteria for closure of air traffic control towers in the Federal Contract Tower Program. Exhibit A, attached hereto.

In separate letters dated March 13, 2013, Spokane, Battle Creek, and others objected to the FAA's closure plan in general and to the proposed closure of their respective airports in particular. Exhibits B & C, attached hereto.

In final agency action dated March 22, 2013, the FAA announced by email that 40 of the towers originally slated for closure would remain open. Exhibit D, attached hereto. But the FAA denied Spokane's and Battle Creek's requests for

exclusion from the proposed tower closures and announced that the closures would begin on April 7, 2013. *Id.*

ARGUMENT

Rule 15(d) of the Federal Rules of Appellate Procedure permits “a person who wants to intervene” in a petition for review of an agency order to “file a motion for leave to intervene.” The motion “must be filed within 30 days after the petition for review is filed and must contain a concise statement of the interest of the moving party and the grounds for intervention.” *Id.*; *see also Synovus Fin. Corp. v. Bd. of Governors*, 952 F.2d 426, 433 (D.C. Cir. 1991) (“Rule 15(d) simply requires the intervenor to file a motion setting forth its interest and the grounds on which intervention is sought.”).

The Supreme Court has recognized that “the policies underlying” intervention in the district courts “may be applicable in appellate courts.” *Union v. Scofield*, 382 U.S. 205, 217 n.10 (1965). Because “Rule 15(d) does not provide standards for intervention, . . . appellate courts have turned to the rules governing intervention in the district courts under Fed. R. Civ. P. 24.” *Sierra Club, Inc. v. EPA*, 358 F.3d 516, 517-18 (7th Cir. 2004).

Under Rule 24(a)(2), the requirements for intervention as of right are satisfied where (1) the motion to intervene is timely; (2) the movant has a “significant protectable interest” in the subject matter of the litigation; (3) the movant’s interest

may be impaired by the litigation; and (4) the existing parties may not adequately represent the movant's interest. *Citizens for Balanced Use v. Mont. Wilderness Ass'n*, 647 F.3d 893, 897-98 (9th Cir. 2011). This Court construes Rule 24(a)(2) “ ‘broadly in favor of proposed intervenors’ . . . because ‘a liberal policy in favor of intervention serves both efficient resolution of issues and broadened access to the courts.’ ” *Wilderness Soc’y v. U.S. Forest Serv.*, 630 F.3d 1173, 1179 (9th Cir. 2011) (en banc) (alteration omitted) (quoting *United States v. City of Los Angeles*, 288 F.3d 391, 397-98 (9th Cir. 2002)). Battle Creek easily satisfies each of the requirements for intervention as of right and thus necessarily also satisfies the more lenient standard for permissive intervention under Rule 24(b)(1)(B). *Cf. Smith v. Pangilinan*, 651 F.2d 1320, 1325 (9th Cir. 1981) (“What we have said about intervention as of right is even more applicable to permissive intervention.”).

I. THIS MOTION IS TIMELY.

The Petition for Review was filed on March 25, 2013, so this motion is being filed well within the 30 day deadline established by Rule 15(d).

II. BATTLE CREEK HAS AN INTEREST IN THIS LITIGATION THAT WOULD BE IMPAIRED IF THE AGENCY PREVAILED.

Like Spokane's Felts Field, Battle Creek's W.K. Kellogg Airport is served by an air traffic control tower slated for defunding by the FAA. Both airports stand to suffer many of the same types of injuries – significantly decreased pilot and passenger safety, less efficient airport operations resulting in a significant de-

crease in capacity, lower air quality, higher ambient noise levels, and substantial economic harm – as a result of the threatened closures.

Closure of the W.K. Kellogg Airport's contract tower would impose additional harms unique to W.K. Kellogg Airport and Battle Creek. Closure would impede air operations that are essential in supporting the Battle Creek Air National Guard 110th Airlift Wing ("ANG"), rendering Battle Creek a less hospitable locale for the ANG and future manned or unmanned military missions. Significantly, the FAA's final decision excepted from closure all of the other airports in the country that host ANG units other than Battle Creek. Likewise, tower closure would seriously reduce the safety of training operations conducted by the Western Michigan University College of Aviation, and certain aspects of the training program will have to be transferred to an airport that does have an air traffic control tower, resulting in a substantial increase in the cost of the training program. Reducing the safety and efficiency of the W.K. Kellogg Airport would hurt Battle Creek's economy by adversely affecting the operations of a variety of local businesses, such as Duncan Aviation, one of the largest business jet maintenance, refurbishment, and modification centers in the world; WACO Classic Aircraft, the only FAA-approved manufacturer of 1930's sport biplanes in the State of Michigan; and the Kellogg Company, the world's largest breakfast cereal manufacturer, whose avia-

tion department since 1997 has transported over 75,000 passengers – most of them departing and arriving out of W.K. Kellogg Airport.

III. INTERVENTION IS NECESSARY TO ENSURE THAT BATTLE CREEK’S INTERESTS ARE ADEQUATELY REPRESENTED.

Because the airports are not identically situated, Spokane and Battle Creek will emphasize different problematic aspects of the FAA’s decision. For example, only Battle Creek will focus on the FAA’s apparent failure to consider Battle Creek’s ANG as part of its stated consideration of “significant threats to national security.” Exhibit D, at 4. And Battle Creek, unlike Spokane, emphasized that closure of its contract tower would likely have a “significant impact on multi-state transportation.” Exhibit B (discussing the detrimental effect tower closure would have on the operations of Duncan Aviation, which serves aircraft from out-of-state). Permitting Battle Creek to intervene will ensure that its distinct interests are fully represented in the proceedings before this Court.

CONCLUSION

For the foregoing reasons, Battle Creek respectfully requests that the Court enter an order granting leave to intervene in support of Petitioner.

April 4, 2013

Respectfully submitted,

/s/ Charles J. Cooper

Charles J. Cooper

Michael W. Kirk

Adam R.F. Gustafson

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Counsel for Intervenor City of Battle Creek

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of April, 2013, I caused to be served by the Court's electronic filing system copies of the foregoing on the following counsel:

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/s/ Lizzie Lipovsky
Lizzie Lipovsky

EXHIBIT A



U.S. Department
of Transportation
**Federal Aviation
Administration**

REC'D MAR 08 2013

800 Independence Ave., SW.
Washington, DC 20591

March 5, 2013

CITY OF BATTLE CREEK
15551 S AIRPORT RD
BATTLE CREEK, MI 49015

Dear Airport Sponsor:

Thank you for your participation in the FAA Contract Tower (FCT) Program. We regret to inform you that in order to implement the budget sequestration that went into effect on March 1, 2013, the FAA must make some critical decisions about funding for the FCT Program.

The FAA's guiding principles in implementing the budget sequestration are to maintain our high safety standards, and to minimize the impact to the greatest numbers of passengers. Therefore, the FAA's initial plans unfortunately affect smaller airports with fewer operations and lower passenger counts more significantly than locations serving larger blocks of passengers. We have identified and, on February 22, 2013, published a list of towers that had fewer than 150,000 total operations AND fewer than 10,000 commercial operations. We anticipate that we will cease to fund on-site air traffic control services at the vast majority of these facilities.

Your airport falls below the above stated criteria based on Fiscal Year 2012 traffic count, and therefore the tower is on the list of those for which we may cease providing funding. Between now and March 13, 2013, the FAA is reviewing its list of locations where it plans to discontinue air traffic control services to identify any locations where the national interest would be adversely affected by tower closure. Negative impact on the national interest is the only criterion the FAA will use for deciding to continue services to an airport that falls below the activity threshold. The FAA is unable to consider local community impact that does not affect the national interest.


The FAA will consider information concerning how closure of particular tower operations will adversely affect the national interest in submissions it receives on or before March 13, 2013. Submissions may be sent to ATO-Terminal Services at ClosureComments@faa.gov or fax to ATO-Terminal Services at (202) 493-4565. The FAA plans to finalize the list of facility closures by March 18, 2013.

While the timing of this action is driven by sequestration, continuing annual budgetary pressure may necessitate future reductions such as these. For communities where the continuation of air traffic control services is important to their airport, but the impact of closure is local and does not affect the national interest, the non-federal contract tower program continues to be an available option to maintain air traffic control services at the airport's expense. Additional information regarding the non-federal contract tower program is contained in Advisory Circular Number AC 90-93A (Operating Procedures for Airport Traffic Control


Towers (ATCT) that are not operated by, or under contract with, the United States (Non-Federal)).

If you have additional questions or need further information, please contact your FAA point of contact in the Service Center, or Tony Mello, Director of Terminal Operations at FAA Headquarters, at (202) 385-8533.

Sincerely,



Michael P. Huerta
Administrator



J. David Grizzle
Chief Operating Officer
Air Traffic Organization

EXHIBIT B



CITY OF BATTLE CREEK

W.K. KELLOGG AIRPORT

March 13, 2013

The Honorable Michael Huerta
Administrator
Federal Aviation Administration
800 Independence Avenue SW
Washington, DC 20591

Dear Administrator Huerta:

The City of Battle Creek is in receipt of your letter dated March 5, 2013 wherein we were informed of the FAA's decision to substantially reduce funding for the Federal Contract Tower (FCT) program and the possibility that this decision could result in the closure of the FCT at the WK Kellogg Airport. It is imperative that you understand the great consternation and overriding concern for the safety of the flying public this decision has brought about on a national basis. The City of Battle Creek strongly believes that our nation must work together in order to reduce federal spending. However, our concern regarding this proposal and its significant impact to the national interest is far greater.

In the few days we have had to absorb and think about the possible ramifications of the FAA's proposed actions we have received a tremendous amount of feedback that overwhelmingly suggests the FAA needs to step back and re-evaluate this decision. To that end, this correspondence is intended to directly respond to your call for comments from airport sponsors as instructed in the March 5, 2013 letter. We truly appreciate the opportunity to provide FAA with this information and trust that it will be of great value to the agency as it further considers any action that may result in the closure of the WK Kellogg Airport (KBTL) air traffic control tower (ATCT).

The WK Kellogg Airport is a large general aviation joint use military airport with a 10,003' x 150' primary runway, a 4,100' x 75' parallel runway and a 4,835' x 100' crosswind runway situated on more than 1500 acres. The parallel runway was just opened in July of 2011 and represents our continued partnership with the FAA to increase capacity and grow the WK Kellogg Airport. The airport is operated as a Class VI airport under 14 CFR Part 139, serves as a GA reliever airport and serves a very unique tenant base which has allowed the airport to be consistently ranked as one of the top five busiest airports in Michigan. Our unique base of tenants includes an Air National Guard presence, higher aeronautical post-secondary education, aircraft manufacturing, aircraft maintenance/refurbishment/modifications, corporate and government flight operations as well as recreational flyers. In fact, a recent study by the Michigan Department of Transportation, Office of Aeronautics, in conjunction with Economic Development Research Group, Inc., Boston, MA indicates that during federal fiscal year 2012 an estimated 233,353 people entered the National Airspace System via the WK Kellogg Airport.

The information below lists the areas of national interest as defined or provided by the FAA and the specific existence of that interest at the WK Kellogg Airport (KBTL).

1. Significant threats to the national security.

Battle Creek Air National Guard 110th Airlift Wing – closing the tower will have immediate and long term adverse effects on the national interest. The immediate effects are as follows:

- The closure will not allow air operations that are essential in supporting the Special Mission (MSN) of the Battle Creek ANG.
- The closure will negatively impact the safe ground movements of military assets operating in a complex operating environment that consists of parallel runways, a crosswind runway and multiple taxiway/runway crossings.
- The closure will have a negative impact on the ability of military aircraft to operate in a safe and controlled environment which is necessary to de-conflict more than 82,000 annual civilian/military operations where approximately 60,000 of those operations are considered by the military to be high risk and conducted by the Western Michigan University College of Aviation.
- The closure will have a negative impact by impeding military DV airlift operations.

Possible long term negative effects.

- Loss of future manned/unmanned MSN due to increased hazards in a high traffic operating environment without air traffic control services.
- The closure and resulting reduction in capacity may result in a loss of justifiable runway length with respect to the 10,003' x 150' runway. Such results would have the following negative impacts.
- Restrictions on the type of military aircraft and MSN's that could be assigned to KBTL such as tanker operations and F-35's.
- Negative impact on UAS LRE operations.

Closing the KBTL ATCT will have a critical impact on the Battle Creek Air National Guard 110th Airlift Wing and the positive impact it currently has on national security.

2. Significant, adverse economic impact that is beyond the impact on a local community.

- A. KBTL is home to Duncan Aviation, one of the largest business jet maintenance, refurbishment and modification centers in the world. Duncan employs more than 650 people that are working on approximately 40 business jets at any one time. Duncan's customer base is approximately 20-25% internationally based and represents companies from Canada, Europe, South America and the Middle East. The aircraft from these countries are operated by foreign pilots.

Duncan also has an agreement with Dassault Aviation out of France to complete the aircraft interior and paint on the Dassault Falcon 7X. As per the agreement Duncan finishes approximately three to six Falcon 7X aircraft each year. The baseline price for one of these aircraft is approximately \$50 million.

The maintenance activities at Duncan necessitate a high amount of ground movements for high performance engine tests, avionics tests, as well as flight testing in the local traffic patterns.

Duncan Aviation and the City of Battle Creek believe that the closure of the tower will adversely impact the safe and efficient operating environment of the airport and could potentially result in a significant loss of business, specifically international business, and jobs.

Closing the KBTL ATCT will have a critical impact on Duncan Aviation and the positive impact it currently has on national interest as it relates to economic impact that is beyond the impact on a local community.

- B. KBTL is home to WACO Classic Aircraft. WACO Aircraft, a family owned American company, is the only FAA approved manufacturer of 1930's sport biplanes in the world. The WACO dream is to revive the Golden Era's open cockpit flying experience. WACO currently has sale offices around the world to service the following markets; North and South America, Europe, Middle East, Africa, East Asia, Australia and Southeast Asia, Greenland and Iceland. WACO currently manufactures the WACO WMF and assembles the Great Lakes 2T-1A biplane. WACO completes all of the post production testing and flying at KBTL under the watchful eye of the KBTL ATCT. The owner of WACO is extremely concerned about the potential closure of the tower and the negative impact it will have on the safety and efficiency of KBTL due to the complex operating environment and diverse fleet mix.

Closing the KBTL ATCT will have a critical impact on WACO Classic Aircraft and the positive impact it currently has on national interest as it relates to economic impact that is beyond the impact on a local community.

3. Significant impact on multi-state transportation.

- A. Duncan Aviation also provides significant maintenance and refurbishment support for about 6% of the active national and international business jet fleet. More than 90% of the business jet traffic in and out of Duncan comes across state and national borders. The loss of the ATCT in Battle Creek and the resulting reduction in safety will have a negative impact on the inter-state movements of these aircraft and the support they rely on from Duncan to fly safely and conduct business across the United States and internationally.

Closing the KBTL ATCT will have a critical impact on the Duncan Aviation and the positive impact it currently has on national interest as it relates to multi-state transportation.

- B. KBTL is home to the Western Michigan University, College of Aviation (COA). The COA is the largest higher aeronautical post-secondary education operation in Michigan and the arguably the third largest in the United States. As such, this not-for-profit public institution provides real and tangible benefits to US civil aviation. The loss of ATCT services at the W.K. Kellogg Airport would have a profoundly adverse effect on the COA that would result in an equally negative impact on national interest.

The looming pilot shortage predicted by industry experts has been exacerbated by the combination of the fifth year anniversary of the FAA's age 65 mandatory retirement as well as changes, taking effect later this year, to the required rest rules and Public Law 111-216 requiring an Air Transport Pilot (ATP) to occupy the first officer pilot seat. Additionally, FAA requires a student pilot to perform certain solo flights at towered airports. Not having the ability to conduct such solo operations at KBTL will result in an increased cost to the student which will deter an increased number of student pilots from attempting to enter the US air carrier industry further exacerbating the pilot shortage. Without ATCT services to separate student aircraft from other users of the airport, which include military, corporate and international jet flights, the college will be compelled to dramatically slow its tempo of operation in order to preserve the necessary level of safety.

Even with a significantly reduced tempo of flight training, the large number of student pilot operations combined with the complex mix of itinerant jet traffic is a very serious risk element without the presence of ATCT services. Should the FAA chose to close the ATCT there is significant doubt that the level of protection from a mid-air collision between this dangerous mix of dissimilar aircraft could be preserved at a level of safety that would be acceptable to the flying public. Such conditions could financially undermine the COA causing further negative impact by reducing or eliminating the other areas of human capital it contributes to civil aviation – Airframe and Power Plant mechanics, Airport Managers, Airline Managers Fixed Base Operator and Air Traffic Controllers.

Closing the KBTL ATCT will have a critical impact on the WMU COA and the positive impact it currently has on national interest as it relates to multi-state transportation.

- C. KBTL is home to the FAA's Flight Inspection group that serves the FAA Great Lakes Region. FAA Flight Inspection ensures the integrity of instrument approaches and airway procedures that constitute our National Airspace System infrastructure. They accomplish this through the airborne inspection of all space and ground-based instrument flight procedures and the validation of electronic signals in space that are transmitted from thousands of various navigation systems. Airborne inspection of navigational aids is a two-part operation, requiring the skills of highly trained flight crews. The first part is an evaluation of the "signal in space and the second part is to certify the instrument approach procedures that are designed to allow pilots to safely use airport runways in adverse weather.

The Battle Creek Flight Inspection Field Office (FIFO) currently services Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio and Wisconsin with four Beech King Air 300's. The Battle Creek FIFO is one of six FIFO's strategically located across the US in order to quickly respond to infrastructure needs of the National Airspace System (NAS). The FIFO flight crews rely on ATCT services to maintain separation from the numerous other aircraft in the operating environment particularly low time student pilots from the Western Michigan University College of Aviation. The KBTL controllers recognize the critical mission of the FIFO and work to provide them with priority sequencing. Without ATCT services FIFO flight crews will sustain delays resulting in further delays to the repair of critical NAS equipment.

Closing the KBTL ATCT will have a critical impact on the FAA Battle Creek Flight Inspection Office and the extensive positive impact it currently has on national interest as it relates to multi-state transportation.

4. The extent to which an airport currently served by a contract tower is a critical diversionary airport to a large hub.

The WK Kellogg Airport is a unique airport due to its size of 1500 acres, extensive runway/taxiway infrastructure, ATCT presence, US Customs Service and tenant base. Strategically located in southwest Michigan KBTL is 85 nautical miles west of the Detroit Metro Airport and 120 nautical miles east of Chicago O'Hare airport. The location along with its 10,003' x 150' wide primary runway and the fact that the Battle Creek Air National Guard base provides state of the art Airport Rescue & Firefighting (ARFF) services up to index E upon emergency notice makes KBTL a critical diversionary airport.

Until 2011, KBTL was listed as a diversionary airport for the NASA Space Shuttle program. These same unique features of KBTL have made it a frequent airport of choice for the President of the United States when traveling in the Presidential 747. Again, the unique combination of heavy infrastructure, excellent ARFF services and an operating air traffic control tower are what make KBTL a critical diversionary airport.

Closing the KBTL ATCT will have a critical impact on the airports ability to remain available as a critical diversionary airport.

In addition to the points of national interest offered by the FAA the City of Battle Creek would like point out other areas national interest that we believe could be impacted by a closure of the KBTL tower. The airport is home to several corporate flight departments including the following:

The Kellogg Company

Headquartered in Battle Creek Michigan, Kellogg Company is the largest manufacturer of breakfast cereal in the world. Chad Piper, Director of Aviation for the Kellogg Aviation Department offered the following comments regarding the potential closure of the KBTL ATCT.

"Since the ATCT transition from FAA to private in 1997, Kellogg's Aviation Department has transported over 75,000 passengers and generated almost 41,000,000 passenger seat miles that in most cases departed and arrived out of KBTL. This was all completed without accident or incident thanks in part to having an active ATCT serving our department and passenger's needs.

With very few choices and reliability issues with the local airline service our corporate aircraft have been an essential business tool in our company's ongoing growth both domestically and internationally. The closure of the KBTL ATCT will hamper and curtail some of the productivity efficiencies we garner from these essential business aircraft.

KBTL is a very unique airport both state wide but also nationally in the very diverse mixture of aircraft utilization. Without an ATCT actively participating in the separation of these very dissimilar aircraft safety and risk will reach a level that will make it difficult to mitigate the potential for an accident or incident." Chad Piper, Director of Aviation, Kellogg Aviation Department

WK Kellogg Airport, Battle Creek, MI

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Lastly, as per your letter dated March 5, 2013, we share your endeavor to “*minimize the impact to the greatest number of passengers.*” Your letter continued to say “*FAA’s initial plans unfortunately affect smaller airports with fewer operations and lower passenger counts more significantly than locations serving larger blocks of passengers.*” On the contrary, the FAA plan affects several large GA airports that serve large numbers of the flying public. Our point of disagreement stems from the fact that the FAA reference to “passengers” refers exclusively to air carrier passengers versus all passengers that make up the flying public. While we realize that there are certain cases where this type of definition may be the norm and has previously been accepted, we cannot in good conscience support such a definition of the flying public as it relates to this issue.

In the 2009-2013 FAA Flight Plan, page 9, the FAA states, “*Even though commercial aviation (air carrier industry) draws most of the headlines, we remain diligent in our effort to work with the pilots who form the backbone of General Aviation (GA).*” Furthermore, in the same document, the FAA shared its “Vision” which is “*We continue to improve the safety and efficiency of flight. We are responsive to our customers and are accountable to the taxpayer and the flying public.*”

As previously stated in this letter, a recent study commissioned by the Michigan Department of Transportation, Office of Aeronautics, in conjunction with Economic Development Research Group, Inc., Boston, MA indicates that during federal fiscal year 2012 an estimated 233,353 people entered the National Airspace System via the WK Kellogg Airport. (See attachment A) We would assert that the 233,353 people that operated out of the WK Kellogg Airport in FY 2012 are exactly that; your customer, tax payers and the flying public and consequently deserve your agency’s best efforts in providing each of them with a safe and efficient airspace system.

So it is with great concern that the City of Battle Creek requests that the FAA step back and re-evaluate its proposed ATCT closure list. Again, we understand and agree that spending cuts must be made. However, we insist that such spending cuts be led by prudent analysis of the total impact on the entire flying public that has come to respect the National Airspace System as the safest and most efficient transportation network in the world. FAA played a major role in establishing that reputation and should be a leader in preserving it.

In closing, the City of Battle Creek truly does appreciate the partnership we have enjoyed with the FAA for so many years. We trust that you will seriously consider our comments regarding the impacts to national interest as well as the safety of the flying public. Please do not hesitate to contact us should have questions or require clarification of our positions.

Respectfully,



Lawrence C. Bowron
Transportation Director
City of Battle Creek, MI

Attachments

WK Kellogg Airport, Battle Creek, MI

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Attachment A

Michigan Department of Transportation - Bureau of Aeronautics

CBA Community Benefits Assessment

Airport Role in Economy

Airport: W. K. Kellogg
 City: Battle Creek
 County: Calhoun
 Ownership: Public
 Scenario: Current
 Service Area: Calhoun
 Run Date: 3/7/2013 7:24:13 AM

	Current	MASP Ultimate
Airport Class	D-III	C-II
Airport Features		
Runway Type	Paved	Paved
Primary Runway Length	10,003	5,000
Primary Runway Width	150	100
Lighting System	HIRL	MIRL
All Weather Access	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Snow Removal	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Fuel Service	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
REIL	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Rotating Beacon	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Seq Crd	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Lighted Wind Indicator	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Instrument Approach	Precision	Precision

Evaluated for Year: 2013

Activity Data	
Total Operations:	80,181
Total Aircraft:	100
Total Passengers:	233,353
Total Cargo Tons:	0

On-going Contribution to the County Economy

	Jobs		Income (\$)		Output (\$)	
	Local	State	Local	State	Local	State
Direct Effect						
1. Airport (incl. FBO and air related tenants)	1,067	1,067	\$37,390,459	\$37,390,459	\$118,587,765	\$118,587,765
2. Airport Tenants: non-air related	2	2	\$88,314	\$88,314	\$192,150	\$192,150
3. Off-Site: Supported by Visitor Spending	30	30	\$607,340	\$607,340	\$1,698,900	\$1,698,900
4. Off-Site: Staff or Cargo Reliant	17	17	\$252,960	\$252,960	\$798,133	\$798,133
Supplier and income re-spending effects*						
5. -due to Airport and Related Activities**	843	1,451	\$1,654,161	\$1,740,945	\$61,673,892	\$106,423,628
6. -due to Visitor Spending	8	11	\$305,321	\$459,349	\$743,878	\$1,395,589
7. -due to Reliance on Air Transport	0	0	\$0	\$0	\$0	\$0
8. Total Impact from Airport Activities	1,967	2,578	\$40,298,555	\$40,539,367	\$183,694,718	\$229,096,166

Tax Generated by Aviation-Related Activity

	At-Airport	Off-Site
9. State Income Tax	\$1,007,947	\$33,915
10. State Sales Tax	\$13,512,213	\$233,557

Annual Capital Expenditures (If known)

	Total	Federal \$	State \$	Local \$
2013 Budget:	0	0	0	0

Transportation Value

MASP 2000 System Goals	
Serve Significant Population Centers (C-II)	tier 1
Serve Significant Business Centers (C-II)	tier 1
Serve Significant Tourism/Convention Centers (B-II)	-
Provide Access to the General Population (B-II)	tier 1
Provide Adequate Land Area Coverage (B-I)	tier 1
Preserve Regional Capacity (B-I)	tier 1
Serve Seasonally Isolated Areas (B-I)	-

* on the Service-area economy as defined by the user

** Supplier and income re-spending effects pertain only to air-related and air support activities

EXHIBIT C



Spokane International Airport
BUSINESS PARK AND FELTS FIELD

9000 West Airport Drive, Suite 204
Spokane, Washington 99224
(509) 455-6455
spokaneairports.net

March 13, 2013

Mr. J. David Grizzle
Chief Operating Officer
Air Traffic Organization
Federal Aviation Administration
800 Independence Avenue, SW
Washington, D.C. 20591

Dear Mr. Grizzle:

On behalf of the Spokane Airport Board, please accept the following request for exclusion from the planned action to close the Federal Contract Tower at Felts Field (SFF).

Before we present our opinion as to why the Felts Field Tower should remain open for national interest purposes we would first like to provide you with several reasons that this proposed action is not valid on several grounds.

As a threshold matter, based on the information available to us, it appears that the FAA's proposed action with respect to Felts Field and all of the proposed contract tower closures violates the FAA's Safety Management System ("SMS") and thus is presumptively unsafe and unlawful. The United States is a member contracting state to the Convention on International Civil Aviation, and Annex 11 requires the United States to establish an SMS for air traffic services.¹ Consistent with its treaty obligation, the FAA has adopted its SMS, and pursuant to the SMS must engage in Safety Risk Management ("SRM") for all air safety significant changes and modifications, including facilities used in the provision of air traffic services. Among other things, an SRM is required where the proposed change to, or loss of a system would result in increased air traffic separation standards. That is the case here, and fundamentally what is at issue is one of the most significant proposed changes to the national air space in recent history.

As of this filing, we have not been informed and are not aware of the FAA's having performed the requisite SRM with respect to the proposed contract tower closures and documented its action and findings in a Safety Risk Management Document ("SRMD"), as required by its own processes and as agreed to by treaty. We reasonably believe that the SRM process to evaluate the safety impact of closing some 189 contract towers, together with the associated synergistic effects of other proposed FAA sequester-related actions (including reductions in other control tower hours of operation) would be a significant undertaking. We have seen no evidence that the FAA has complied with its own SMS by conducting the required SRM analysis and study with respect to the proposed tower closures, as required by the FAA's own rules, policies, and/or practices.

¹ ICAO Annex 11 to the Convention on International Civil Aviation, Air Traffic Services, Thirteenth Edition, July 2001, Section 2.26.



Another fundamental problem with FAA's proposed contract tower closures is the agency's failure to comply with the National Environmental Policy Act of 1969 ("NEPA").² In brief, NEPA requires federal agencies to publish environmental impact statements whenever proposed agency action would significantly impact the human environment. NEPA is sweeping in scope: "Congress authorizes and directs that, to the fullest extent possible ... the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in [the Act]." 42 U.S.C. § 4332. "[A]ll agencies of the Federal Government shall [prepare an EIS for] ... every recommendation ... and other major Federal action[] significantly affecting the quality of the human environment." *Id.* The proposed contract tower closures are a major Federal action likely to significantly affect the human environment. The tower closures and attendant alteration of air traffic, including approach patterns below 3,000 feet AGL, are likely to have significant adverse effects on noise sensitive areas, including material changes to the DNL noise contours at many if not all of the affected airports, including Felts Field. Further, the proposed tower closures may well have additional significant adverse environmental effects, including increased, but otherwise avoidable, aviation fuel use and related emissions increases. Finally on this point, the proposed tower closures clearly represent a major Federal action that is highly controversial deserving, as a minimum, an environmental assessment according to FAA's own internal guidance and orders. We are not aware of the FAA having prepared any EA or EIS for the proposed contract closures, either on a site-specific or collective basis. We are not aware of any categorical exclusion that applies, and the proposed tower closures will almost certainly result in changed noise contours over residential noise sensitive areas associated with changes in flight approaches below 3,000 feet, which is the case at Felts Field. In sum, it appears that the NEPA requires the FAA to prepare the requisite EA(s) and/or EIS(s) prior to any of the proposed contract tower closures, yet the FAA has not done so.

In addition, Congress has stated that "[t]he Secretary shall continue the ... air traffic control tower contract program established under subsection (a) of this section for towers existing on December 30, 1987, and extend the program to other towers as practicable." 49 U.S.C. § 47124(b)(1)(A). The FAA's proposed action would largely eliminate the control tower program altogether and thus, on this ground alone, would be contrary to Congress's express statutory mandate. Moreover, even assuming *arguendo* that the FAA's proposed *en masse* cancellation of federal contract tower program contracts does not violate the Congressional directive of § 47124(b)(1)(A) to "continue the ... program," the statute provides for the extension of the program as "practicable." The FAA has made no showing that the extension of the program, including with respect to Felts Field, is not practicable. To date, the FAA has therefore failed to reconcile its proposed contract control tower closures with its statutory obligation under Section 47124(b)(1)(A), let alone explained adequately why it is not "practicable," *i.e.*, possible, to continue these contract tower operations. The sequester by itself is clearly insufficient, because nothing in the sequester statute requires the FAA to allocate the disproportionate brunt of spending cuts to the contract tower program.

In short, we believe that FAA's proposed contract tower closures, including the proposed closure of the contract tower at Felts Field, would be in breach of Federal law and FAA's own rules and policies, and should not proceed until these issues are properly addressed.

² 42 U.S.C. § 4321 *et seq.*



We believe that the FAA's ad hoc approach is not a qualified substitute for a lawful administrative procedure that preserves the due process rights of the affected parties. Moreover, we believe that FAA's actions concerning this matter blatantly contravene the customary manner in which the FAA would consider impacts associated with issues of far lesser significance. However, in the interest of cooperation with the agency, we respectfully submit the following information related to the FCT at Felts Field for your consideration.

National Interest Statement for Felts Field (KSFF)

Background

Felts Field is a 400-acre general reliever airport located in the eastern section of the City of Spokane. The Airport has two paved runways. Runway 3L-21R 150x4499 MALSR; Runway 3R-21L 75x2650; a turf landing strip and a waterway 100x6000 to accommodate seaplanes on the adjacent Spokane River. In 2012, Felts Field had 52,928 operations and 3,747 instrument operations. Felts Field is home to over 250 aircraft and 57 tenants. In addition to Western Aviation, the Fixed Base Operator, other prominent tenants include U.S. Customs and Border Protection, Spokane County Sheriff's Office (Aviation Unit), Northwest MedStar Critical Care Transport Service, Spokane Turbine Center/Moody Aviation, Spokane Community College, Rocket Engineering, Eagle Helicopter, GARCO Construction, Inland Construction, Nordstrom, and Crux Subsurface and Felts Field Aviation.

SFF is within one mile of the regional emergency operations center located at the main campus of Spokane Community College. This is the command post from which, state, local and federal agencies would operate in the event of a significant emergency event in the community.

Airspace Environment

Felts Field is located 4 miles east of the final for Runway 21 at Spokane International and Runway 23 at Fairchild Air Force Base (SKA) and is in their double Class "C" airspace. (See Exhibit 1). SFF is 8 NM from GEG and 11 NM from SKA.

The Class "C" airspace around GEG is very unique in that it includes three airports with significant cumulative operations SKA, GEG and SFF. The difficulty with SFF is that it is just under the eastern edge of the Class "C" and it is critical that pilots be given both IFR and VFR departure assistance by the Felts Field Tower. Any aircraft departing SFF under VFR conditions will go through or just under the Class "C" unless they are departing directly east toward Coeur d'Alene, Idaho. Any other direction puts an aircraft either into or just under the Class "C". For this reason it is imperative that aircraft unfamiliar with SFF departing west, southwest or northwest be given a departure vector or instructions to avoid the Class "C" or clearance and a handoff into the Class "C". Such assistance comes from SFF tower.

SFF is also unique in that it has two, three or even four parallel runways, if you count the sod runway and the river. Parallel runways pose serious safety hazards without tower control and monitoring. General aviation pilots do not always know the ins and outs of right/left traffic patterns at uncontrolled parallel runways. There have been pilot reports of close calls in the pattern because another pilot overshot final or had lined up with the wrong runway.



While it is a significant safety and efficiency benefit for Felts Field to be geographically located away from the combined airport traffic areas and airspace of Fairchild Air Force Base and Spokane International due to their close proximity to one another, (3.3 NM) the physical location of Felts Field in the airspace requires procedures to be in place for the Felts Tower to provide instructions to protect the Class C airspace.

Aircraft on vectors to Spokane International Runway 21 descend to 4000' over Felts Field on approach. This includes all high-performance aircraft operated by passenger and cargo air carriers (including Heavies). The Contract Tower at Felts Field "quick looks" these aircraft in order to provide traffic advisories and control instructions to all arriving and departing aircraft at Felts Field. With the high closure rate of the aircraft descending to Spokane International and the proximity to the patterns and arrival departure corridors at Felts Field, it is critical to have a dedicated presence to provide traffic advisories.

Aircraft landing on Runway 23 at Fairchild AFB pass directly north of Felts Field descending to 4000' also. Again, the Felts Field Contract Tower "quick looks" these aircraft in order to provide traffic advisories and control instructions to all arriving and departing aircraft at Felts Field. Most of these aircraft are Heavy KC135s and wake turbulence is a definite hazard to general aviation in the area.

Felts Tower currently provides visual separation between IFR arrivals and departures through a Letter of Agreement with Spokane Approach Control. If the Felts Field Tower is closed, IFR arrivals will have to verbally report on the ground before another IFR aircraft can be released for departure or cleared for an IFR approach. (See Exhibit 2 and Exhibit 3).

Cost/Benefit

If SFF is closed, Class D controlled airspace services will cease and aircraft will be relegated to providing their own separation and traffic advisory services using the Common Traffic Advisory Frequency. The lack of ATC services will create an increased potential for accidents and runway incursions.

As noted by the U.S. DOT Inspector General's report (AV-2013-009) issued on November 5, 2012, the SFF ATCT, like many similar facilities, cost-effectively provide an enhanced safety environment for users and for the surrounding airspace in major metropolitan areas.

This benefit can be objectively measured using the FAA's criteria for determining the benefit-to-cost ratio. SFF has recently conducted its own B/C analysis and has determined that the B/C ratio is at least 1.12 meaning that the benefit of ATC services in reducing the hazard for accidents and enhancing flight efficiencies is 12% greater than the FAA's cost of providing that service.

Impacts to National Security

1. DHS/Customs and Border Protection bases a helicopter and fixed wing aircraft at Felts Field to conduct their drug interdiction and national security missions as it is the most capable general aviation airport in eastern Washington. Felts Field provides an excellent environment for preserving operational security and cost-effectiveness to



support their mission. The DHS aircraft are used to back up other federal and local law enforcement operations in the region.

2. The Civil Air Patrol (CAP) is a Congressionally Chartered USAF volunteer auxiliary with three missions: Aerospace Education, Cadet Programs, and Emergency Services. The Spokane CAP Squadron of Washington Wing CAP is based at Felts Field. The Squadron operates one of the two CAP aircraft based in Eastern Washington. A total of nine CAP aircraft are located in Washington. The Felts Field aircraft is used to support search and rescue missions throughout Washington and adjacent States. It, and other Washington Wing CAP aircraft support local, State, and Federal agencies upon request. CAP missions flown in support of USAF may involve several CAP aircraft operating out of Felts Field. Felts Field Tower offers several important benefits to CAP operations. The Tower significantly reduces the prospect of airspace conflicts and mid air mishaps involving CAP aircraft arriving or departing Felts Field. Should several CAP aircraft be mobilized for emergency purposes in north central Washington they would be based at Felts Field. Depending upon the exigency, aircraft from local, State, Federal, and even private volunteer operated and owned aircraft may be mobilized. The ATC Tower would be an essential element in the safe integration of CAP and other aircraft in any emergency services mission. In addition, the aircraft is used to provide a curriculum of orientation flights for cadets (youth from 12 to 17 years of age) throughout eastern Washington. A high percentage of CAP orientation flight syllabi are flown from Felts Field. CAP aircraft typically have high utilization. The aircraft based at Felts Field has consistently flown in excess of 225 hours per year. The Civil Air Patrol uses a Cessna 182R in their operations.
3. The Spokane County Sheriff's Office also bases a helicopter at Felts Field. The Spokane County Sheriff helicopter is called upon to back up federal law enforcement operations in the area. This helicopter is primary in the response to, and interdiction of, laser incidents involving private and commercial aircraft in the region.

There are numerous federal law enforcement operations in the urban area located within the Felts Field Airport Traffic Area that involves the use of aircraft. The Felts Tower ATCS also significantly contribute to the safety of emergency services personnel by keeping other air traffic away from them. Closing FCTs would remove this layer of protection for those who fly as well as those on the ground.

4. Felts Field is located within one mile of the regional emergency operations center at Spokane Community College and the military reserve and National Guard readiness center, making it ideal to be used for helicopter and fixed wing aircraft that are operating in support of emergency response in the region or the national security/military mission.
5. The Felts Field Tower provides separation services and traffic advisories for heavy military aircraft that are descending for arrival at Runway 23 at Fairchild AFB, which is the primary arrival route for aircraft to the Base.
6. The Felts Field Tower coordinates military helicopter practice approaches and also coordinates required military helicopter approaches to Sacred Heart Hospital and Deaconess Hospital helipads, respectively.



7. While ATCS primary responsibilities are the safe and efficient movement of Air Traffic they are often the first to observe and report unusual situations and potential security threats on and around the airports they serve. ATCS report suspicious or unknown personnel and vehicles, and a variety of other security and safety concerns to Airport Security/Operations personnel. Many of these instances would go unreported without ATCS vigilant observation and awareness. There is no doubt that terrorists continue to be focused on general aviation aircraft to carry out attacks on the homeland. Without an operating FCT at Felts Field, the Airport's security vulnerability will be negatively affected. The media attention to the Felts Field Tower closure will certainly provide information to individuals or groups that may be interested in using general aviation aircraft for domestic attacks.

In 2008 the TSA identified Felts Field as one of the critical general aviation airports which would require a Large Aircraft Security Program (LASP). That program was eventually placed on hold, however, the TSA is currently preparing Joint Vulnerability Assessments to be conducted at GA airports to identify measures and programs necessary to secure them. The loss of ATC personnel will certainly adversely impact the ability to provide the necessary security for an airport of this importance.

The Domestic Events Network (DEN) notification process will also cease with the closure of the Felts Field Tower, so possible threats to national security, life, and property will go unobserved and unreported including, but not limited to bomb threats, breach of airport perimeter, aircraft and airport security.

8. If there is a MANPAD event, the Tower provides critical notification to airborne aircraft, and local, regional, state, and federal authorities.

Accordingly, we request your office cancel any planned action to close the Federal Contract Tower at Felts Field and to further coordinate with the Department of Defense and the Department of Homeland Security.

Adverse Economic Impact beyond the Impact on the Local Community

1. Northwest MedStar Critical Care Transport Service is based at Felts Field. MedStar serves eastern Washington, northern Idaho, western Montana and northeastern Oregon. MedStar flies under Lifeguard status. MedStar operates four (4) EC-135 helicopters and three (3) Pilatus PC-12 fixed-wing aircraft. In 2012, MedStar performed 3700 emergency transports for patients in the region. Closure of the Contract Tower at Felts Field has raised serious concerns from MedStar including, but not limited to the following issues:
 - Unreliable communications with Spokane Tower due to the distance and terrain between SFF and GEG.
 - Potential for delays caused by coordination with Flight Service.
 - Concern about not always being able to depart VFR and get clearance in the air.
 - The Tower provides an extra set of eyes for ground operations (hover-taxi/fixed wing taxi) given the location of the MedStar hangar in a cluster of other hangars



without direct access to the runway or FATO area. (See Exhibit 4). This reduces aircrew workload in a critical phase of flight and provides for quicker departures.

- Increased risk of aircraft collision over heavily populated areas in and around Felts Field.
- Decreased coordination of communication and line of sight with aircraft.
- Concern about getting priority clearance from controllers at GEG due to their workload and lack of line of sight and lack of awareness of aircraft moving on the ground and in the pattern at Felts Field.

Please see MedStar's letter for further detail (Exhibit 5).

2. Felts Field serves as an Alternate Airport for Federal Express C208 and ATR-42 aircraft when Spokane International Airport is below their minimums. Because Felts Field elevation is 400' below Spokane International, weather conditions at Felts Field are typically more favorable and allow for these aircraft to divert. Since Felts Field is located within 2 miles of the FedEx sort facility, trucks can be dispatched directly to Felts Field to pick up cargo to make sure that package delivery is not adversely impacted. FedEx is operating these aircraft from smaller cities in Washington State and northeast Oregon including Wenatchee, Yakima, Moses Lake, Pasco/Kennewick/Richland (Tri-Cities), Lewiston and Pendleton, OR. Closing the Federal Contract Tower at Felts Field will negatively impact package delivery services to a region in a 160 air mile radius of Spokane, which represents several hours of drive time. It is likely that without Tower service, Felts Field will not be an option to divert these aircraft to, especially in winter operations or at periods of less than VMC.
3. Felts Field is the branch headquarters for Moody Bible Institute and Moody Aviation/Spokane Turbine Center flight schools. Moody/STC annually has 135 flight students enrolled in the program and 80 A&P students. Moody students are recruited from all over the world and Moody trains more Missionary Pilots than any other organization. Moody offers a Mission Aviation Technology bachelor's degree program. Moody/STC relocated their operation to Felts Field in 2005 from an uncontrolled airport in Elizabethton, TN based in part because Felts Field is a Towered Airport. The Airport Board just sold two hangars to STC and granted a long-term lease to help anchor Moody/STC in Spokane. During the summer months, Moody/STC can have as many as 15 aircraft at a time flying in the airport traffic pattern and local area. Moody/STC has indicated that it will be impossible to expand their curriculum at an uncontrolled airport. The closure of the Contract Tower at Felts Field will permanently and negatively impact the ability of Moody/STC to expand their curriculum as they do not believe it is possible at an uncontrolled airport. Moody/STC has invested over \$6 million in facilities and equipment to support their activities at Felts Field. Please see Moody/STC's letter detailing their concerns in Exhibit 6.

Accordingly, we request that your office cancel any planned action to close the Federal Contract Tower at Felts Field and to further coordinate with the Spokane Airport Board to address how these safety problems will be assessed through the appropriate process.



Other Impacts Related to National Interest

1. The closure of the Felts Field FCT will increase the probability of Runway Incursions from Controller Operational Errors, Pilot Deviations and Vehicle/Pedestrian Deviations. This will be a system-wide impact that will lead to an increase in accidents. Without a Control Tower, control of vehicles on movement areas of the airport would be eliminated, drastically increasing the chance of a vehicle/aircraft collision. The layout and location of vehicle access gates at Felts Field creates many more vehicle crossings of movement areas than in other general aviation airports. For example, Rocket Engineering has 40 employees that drive to the hangar/workshop each day and also generates several pick-ups and deliveries each day from couriers, FedEx and UPS. The location of Rocket Engineering is completely inside the fence and requires transit across movement areas. (See Exhibit 7).
2. Runway Safety Action Teams (RSAT) would not be effective without the Felt Field Tower. Closing the FCT at Felts Field would further reduce the validity and effectiveness of RSAT-related observations and recommendations.
3. Life Safety. No emergency services are based at or available at Felts Field. The Tower is required to make notification thru 911. The Felts Field Tower is the first line of defense for pilots and passengers in the event of an aircraft accident/incident – on and off the airport. Tower ATCS are likely to be the first to know of an aircraft in distress, and they become the focal point for the emergency response. They are most likely to notify first responders and then authorize their access onto the airport and direct them to the incident scene (on or off airport). Closing FCTs would remove this layer of protection. The FCT played an important coordinating role in a fatal accident on June 6, 2010 involving a student pilot in an R-22 on his first solo flight that crashed into a residential area one-half mile from the airfield.
4. Conflict/Low Altitude Resolutions. ATCS can maintain visual on IFR aircraft causing conflict or low altitude alerts reducing the possibility of a go around and increased workload on the NAS and radar controller. Without a tower the aircraft would be transferred to the airport CTAF and would not be issued the necessary safety alerts.
5. Communication of Airspace Procedure Changes/Updates. The Felts Field Tower provides timely briefs to pilots and airport users when the FAA changes or revises procedures.
6. Traffic “push” or “rush” times. Without the Tower, there will not be any control of Student/flight school push times such as afternoon flights after morning classes with numerous low-time pilots in the traffic pattern mixing with IFR/VFR itinerant traffic.
7. Traffic Pattern Advisory Services. When conditions dictate a change of active runway, the Felts Field ATCT provides for the orderly control and flow of aircraft, ensuring separation between aircraft and greatly reducing the chance of a mid-air collision or near mid-air collision.



8. **Weather Reporting/ASOS.** The automated systems have been proven to have significant limitations requiring a human observer to augment the automated observations. The ASOS at Felts Field is often unreliable due to local positioning of equipment. The Spokane River runs 100 yards from the visibility sensors and when fog settles on the river the visibility drops to less than a mile and ceiling becomes indefinite. The actual weather is often clear and 10 miles visibility. The sensors are also affected by a cars and trucks on a dirt road which is 50 feet from the sensors. The same erroneous ceiling and visibility is reported due to dust. Tower controllers can override erroneous ASOS readings. Closing the FCT at Felts Field would eliminate human weather observers thereby significantly reducing the accuracy of weather observations and having a direct impact on the safety and efficiency of the Airport.
9. **Coordination of Construction Activity.** Substantial airport construction will be continuing for the next two years at Felts Field to rehabilitate aircraft parking aprons and to change magnetic headings on the runways and all associated signage. The construction project has numerous phases requiring periodic closure of portions of the movement area. The project necessitates NOTAMS to be issued and amended daily throughout the summer; runway magnetic variation change (renumbering) will require closing of both runways at different intervals to allow for new signs to be installed and painting to be completed; the CSPP completed for the projects was based on the control tower being operational and therefore the SRMDM will become void due to new risks which must be addressed; revised taxi routes into and out of movement area will be required as the ramp repaving project continues. Without a Control Tower, during airport construction projects, alternate taxi/departure/landing routes and restrictions would not be controlled on a real time basis. Control of construction vehicles and personnel would not be available. Pilot confusion would not be corrected, and progressive taxi instructions would not be available. There is clearly a danger associated with not having a staffed Tower at Felts Field while such extensive construction projects are in progress.
10. **Field Condition Reporting and Winter Operations.** The lack of current and timely field condition reports could significantly slow down or unnecessarily suspend aircraft movement due to airfield contaminants. Winter operations could negatively affect the NAS due to non-availability of landing surfaces due to snow removal operations. The presence of an ATC facility allows more latitude to airport managers in regards to retaining runway availability. Air carrier and air taxi aircraft are restricted from flying into an airport known to be closed nor can they use the airport as an alternate (see FedEx discussion). The Airport staffs one maintenance person at Felts Field to conduct snow removal operations and that person would now be required to assume the role of a controller and communicate directly with pilots to inform them of field conditions. Since this staff person would be operating equipment, radio calls may go unanswered or may be missed altogether. This is of particular importance given the Lifeguard status of MedStar, where it is critical to have regular and clear communications of field conditions for inbound and outbound flights.
11. **ATIS reports.** Without trained and experienced controllers to provide up-to-the-minute information, pilots would be forced to rely on less current sources such as NOTAMs,



aviation related websites and other sources of airport and airspace data that may have changed while in transit.

12. NAVAID status. Without the presence of certified ATCS to monitor NAVAID status, outages could go undetected and maintenance personnel could not be notified within a timely manner. Non-remotely monitored NAVAIDS/visual landing aid outages would not be reported in a timely fashion, (such as PAPI, ALS, ASOS, Obstruction lights, etc.).
13. PIREP solicitation would be absent without ATCS. This could result in imperative weather information being omitted from pilot decision making.
14. Radar facilities are responsible for maintaining separation of all IFR aircraft until landing. Currently this responsibility is delegated to the FCT at Felts Field via LOA. The reduction of available ATC facilities will require radar facilities to receive a verbal confirmation of landing from IFR aircraft before another aircraft can be released for departure or cleared for approach.
15. Airport lighting. Airport lighting controls are located in the ATC tower cab and require constant monitoring during periods of rapidly changing weather conditions and special operational requirements needs. If lighting is inoperative from pilot controls, there will not be anyone available to manually activate the system or to report it for maintenance. General lighting outages would not be detected and reported in a timely manner.
16. Visual Separation. Visual separation will not be used without an operating Control Tower which will increase the amount of spacing radar facilities will have to provide until leading aircraft lands.
17. Foreign Object Debris (FOD) reporting. The Tower staff at Felts Field often detects and reports FOD to airport maintenance. This is of increasing concern with wildlife strikes as well as the significant amount of construction underway at the airport directly involving movement area pavements.
18. Increased workload for local controllers. Closing SFF would reduce the number of ATCS in the region and in the NAS to handle traffic – significantly adding to the workload of the remaining ATCS and placing a strain on the system. Without a staffed Contract Tower at Felts Field, more responsibilities will accrue to the GEG TRACON. GEG Radar controllers will have to issue instrument clearances normally issued by the Felts Field ATCT, issue weather and airport conditions normally obtained from a recorded broadcast created by the Felts Field ATCT and provide additional separation services to aircraft in the vicinity of Felts Field. Many of these responsibilities are most efficiently performed by ATCT controllers; not radar controllers. The extra workload would have a negative impact on the safety and efficiency of Felts Field, Spokane International Airport, Fairchild Air Force Base and the NAS.
19. Wildlife Hazards. Felts Field is currently involved in a Wildlife Hazard Assessment (WHA) being conducted by the USDA. The WHA is a proactive measure to address a



growing wildlife problem at Felts Field involving migratory birds and other mammals. Closure of the FCT at Felts Field would remove a significant resource for pilots as to the location, type and size of wildlife hazards in and around Felts Field, which is exacerbated by the Spokane River and urban development around the perimeter of the airfield which makes the airfield attractive for flocking birds. The close proximity of the Spokane River attracts Bald Eagles and Osprey and also serves as a point of entry for coyotes, deer and moose. Large flocks of Canada Geese in the Spring and Fall migration also present significant hazard to aircraft operations at Felts Field, particularly to helicopter operations (see MedStar discussion).

20. Special Events. Felts Field supports special events such as Neighbor Day and the Northwest Biplane Fly-In (www.nwbiplane.com). Neighbor Day is held annually and the Biplane Fly-in is held every other year. In 2011, the Biplane Fly-in attracted 63 aircraft to Felts Field over one weekend. The Felts Field Tower personnel have an integral role in making this event possible from a safety and coordination standpoint. Neighbor Day attracts thousands of people to Felts Field, including itinerant pilots flying into a busy traffic pattern. The event includes coordinated aerial displays and has featured the EAA B-17. Again, the Felts Field Tower plays an integral role in coordinating and overseeing air safety during the event.
21. Promotion of Aviation/Safety and Awareness. Providing air traffic services is not the only duty of the controllers at Felts Field. ATC staff routinely provides training and feed back to local pilots, instructor pilots and student pilots. The Tower hosts tours along with controller/pilot forums at the flight schools and at the FBO as well as during special events. In addition, FCT staff visit local non-towered airports and provide essential forums for the FAA WINGS programs and educating pilots on air traffic services. Tower staff also interacts with students from local schools to encourage their interest in pursuing aviation careers.

Conclusion

For the above-stated reasons, the Spokane Airport Board respectfully requests the FAA to reverse its preliminary decision to terminate the Federal Contract Tower at Felts Field.

Sincerely,

Lawrence J. Krauter, A.A.E., AICP
Chief Executive Officer

EXHIBIT D

From: David.Grizzle@faa.gov [mailto:David.Grizzle@faa.gov]

Sent: Friday, March 22, 2013 01:58 PM

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Subject: FAA Contract Tower Decision Update

In early March, FAA proposed to close 189 contract air traffic control towers as part of its plan to meet the \$637 million in cuts required under budget sequestration and announced that it would consider keeping

open any of these towers if doing so would be in the national interest. The National interest considerations included: (1) significant threats to national security as determined by the FAA in consultation with the Department of Defense or the Department of Homeland Security; (2) significant, adverse economic impact that is beyond the impact on a local community; (3) significant impact on multi-state transportation, communication or banking/financial networks; and (4) the extent to which an airport currently served by a contract tower is a critical diversionary airport to a large hub.

In addition to reviewing materials submitted on behalf of towers on the closure list, DOT consulted with the Department of Defense, the Department of Homeland Security, and conducted operational assessments of each potential tower closure on the national air transportation system. As a result, 24 federal contract towers will remain open because closing them would have a negative impact on the national interest. The FAA will begin a four-week phased closure of 149 federal contract towers beginning on April 7.

An additional 16 number of federal contract towers under the "cost share" program will be able to remain open because Congressional statute sets aside funds every fiscal year for these towers. These funds are subject to sequestration but the required 5 percent cut will not result in tower closures.

Some communities will elect to participate in FAA's non-federal tower program and assume the cost of continued, on-site air traffic control services at their airport (see Advisory Circular AC 90-93A). The FAA is committed to facilitating this transition.

Sincerely,

David Grizzle
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FAA Contract Towers Remaining Open
(24 FCTs)

3-22-2013

LOCID	Facility Name	City	State
BFM	MOBILE DOWNTOWN	MOBILE	AL
HHR	JACK NORTHROP FIELD/ HAWTHORNE MUNI	HAWTHORNE	CA
PMD	PALMDALE RGNL/USAF PLANT 42	PALMDALE	CA
SQL	SAN CARLOS	SAN CARLOS	CA
FTG	FRONT RANGE	DENVER	CO
CRG	CRAIG MUNI	JACKSONVILLE	FL
ISM	KISSIMMEE GATEWAY	ORLANDO	FL
OPF	OPA- LOCKA EXECUTIVE	MIAMI	FL
VQQ	CECIL	JACKSONVILLE	FL
FTY	FULTON COUNTY AIRPORT- BROWN FIELD	ATLANTA	GA
JRF	KALAELOA (JOHN RODGERS FIELD)	KAPOLEI	HI
FOE	FORBES FIELD	TOPEKA	KS
CWF	CHENNAULT INTL	LAKE CHARLES	LA
BAF	BARNES MUNI	WESTFIELD/ SPRINGFIELD	MA
STJ	ROSECRANS MEMORIAL	ST JOSEPH	MO
GTR	GOLDEN TRIANGLE RGNL	COLUMBUS/ W POINT / STARKVILLE	MS
MEI	KEY FIELD	MERIDIAN	MS
FOK	FRANCIS S GABRESKI	WESTHAMPTON BEACH	NY
IAG	NIAGARA FALLS INTL	NIAGARA FALLS	NY
WDG	ENID WOODRING RGNL	ENID	OK
LMT	KLAMATH FALLS	KLAMATH FALLS	OR
MQY	SMYRNA	SMYRNA	TN
GKY	ARLINGTON MUNI	ARLINGTON	TX
CYS	CHEYENNE RGNL/JERRY OLSON FIELD	CHEYENNE	WY

(149 FCTs)

DOT ID	Facility Name	City	State
DHN	DOTHAN RGNL	DOTHAN	AL
TCL	TUSCALOOSA RGNL	TUSCALOOSA	AL
FYV	DRAKE FIELD	FAYETTEVILLE	AR
TXK	TEXARKANA RGNL-WEBB FIELD	TEXARKANA	AR
GEU	GLENDALE MUNI	GLENDALE	AZ
GYR	PHOENIX GOODYEAR	GOODYEAR	AZ
IFP	LAUGHLIN/BULLHEAD INTL	BULLHEAD CITY	AZ
RYN	RYAN FIELD	TUCSON	AZ
FUL	FULLERTON MUNI	FULLERTON	CA
MER	CASTLE	ATWATER	CA
OXR	OXNARD	OXNARD	CA
RAL	RIVERSIDE MUNI	RIVERSIDE	CA
RNM	RAMONA	RAMONA	CA
SAC	SACRAMENTO EXECUTIVE	SACRAMENTO	CA
SDM	BROWN FIELD MUNI	SAN DIEGO	CA
SNS	SALINAS MUNI	SALINAS	CA
VCV	SOUTHERN CALIFORNIA LOGISTICS	VICTORVILLE	CA
WHP	WHITEMAN	LOS ANGELES	CA
WJF	GENERAL WM J FOX AIRFIELD	LANCASTER	CA
BDR	IGOR I SIKORSKY MEMORIAL	BRIDGEPORT	CT
DXR	DANBURY MUNI	DANBURY	CT
GON	GROTON-NEW LONDON	GROTON (NEW LONDON)	CT
HFD	HARTFORD-BRAINARD	HARTFORD	CT
HVN	TWEED-NEW HAVEN	NEW HAVEN	CT
OXC	WATERBURY-OXFORD	OXFORD	CT
APF	NAPLES MUNI	NAPLES	FL
BCT	BOCA RATON	BOCA RATON	FL
EVN	NEW SMYRNA BEACH MUNI	NEW SMYRNA BEACH	FL
FMY	PAGE FIELD	FORT MYERS	FL
HWO	NORTH PERRY	HOLLYWOOD	FL
LAL	LAKELAND LINDER RGNL	LAKELAND	FL
LEE	LEESBURG INTL	LEESBURG	FL
OCF	OCALA INTL-JIM TAYLOR FIELD	OCALA	FL
OMN	ORMOND BEACH MUNI	ORMOND BEACH	FL
PGD	PUNTA GORDA	PUNTA GORDA	FL
SGJ	NORTHEAST FLORIDA RGNL	ST AUGUSTINE	FL
SPG	ALBERT WHITTED	ST PETERSBURG	FL
SUA	WITHAM FIELD	STUART	FL
TIX	SPACE COAST RGNL	TITUSVILLE	FL
ABY	SOUTHWEST GEORGIA RGNL	ALBANY	GA
AHN	ATHENS/BEN EPPS	ATHENS	GA
LZU	GWINNETT COUNTY - BRISCOE FIELD	LAWRENCEVILLE	GA
MCN	MIDDLE GEORGIA RGNL	MACON	GA
RYY	COBB COUNTY- MCCOLLUM FIELD	ATLANTA	GA
DBQ	DUBUQUE RGNL	DUBUQUE	IA
IDA	IDAHO FALLS RGNL	IDAHO FALLS	ID
LWS	LEWISTON-NEZ PERCE COUNTY	LEWISTON	ID

(149 FCTs)

LOC ID	Facility Name	City	State
PIH	POCATELLO RGNL	POCATELLO	ID
SUN	FRIEDMAN MEMORIAL	HAILEY	ID
ALN	ST LOUIS RGNL	ALTON/ST LOUIS	IL
BMI	CENTRAL IL RGNL ARPT AT BLOOMINGTON- NORMAL	BLOOMINGTON/ NORMAL	IL
DEC	DECATUR	DECATUR	IL
MDH	SOUTHERN ILLINOIS	CARBONDALE/ MURPHYSBORO	IL
UGN	WAUKEGAN RGNL	CHICAGO/ WAUKEGAN	IL
BAK	COLUMBUS MUNI	COLUMBUS	IN
GYG	GARY/CHICAGO INTL	GARY	IN
HUT	HUTCHINSON MUNI	HUTCHINSON	KS
IXD	NEW CENTURY AIRCENTER	OLATHE	KS
MHK	MANHATTAN RGNL	MANHATTAN	KS
OJC	JOHNSON COUNTY EXECUTIVE	OLATHE	KS
TOP	PHILIP BILLARD MUNI	TOPEKA	KS
OWB	OWENSBORO-DAVIESS COUNTY	OWENSBORO	KY
PAH	BARKLEY RGNL	PADUCAH	KY
DTN	SHREVEPORT DOWNTOWN	SHREVEPORT	LA
BVY	BEVERLY MUNI	BEVERLY	MA
EWB	NEW BEDFORD RGNL	NEW BEDFORD	MA
LWM	LAWRENCE MUNI	LAWRENCE	MA
ORH	WORCESTER RGNL	WORCESTER	MA
OWD	NORWOOD MEMORIAL	NORWOOD	MA
ESN	EASTON/NEWMAN FIELD	EASTON	MD
FDK	FREDERICK MUNI	FREDERICK	MD
HGR	HAGERSTOWN RGNL- RICHARD A HENSON FLD	HAGERSTOWN	MD
MTN	MARTIN STATE	BALTIMORE	MD
SBY	SALISBURY-OCEAN CITY WICOMICO RGNL	SALISBURY	MD
BTL	W K KELLOGG	BATTLE CREEK	MI
DET	COLEMAN A. YOUNG MUNI	DETROIT	MI
SAW	SAWYER INTL	MARQUETTE	MI
ANE	ANOKA COUNTY-BLAINE ARPT(JANES FIELD)	MINNEAPOLIS	MN
STC	ST CLOUD RGNL	ST CLOUD	MN
BBG	BRANSON	BRANSON	MO
COU	COLUMBIA RGNL	COLUMBIA	MO
GLH	MID DELTA RGNL	GREENVILLE	MS
HKS	HAWKINS FIELD	JACKSON	MS
HSA	STENNIS INTL (HSA)	BAY ST LOUIS	MS
OLV	OLIVE BRANCH	OLIVE BRANCH	MS
TUP	TUPELO RGNL	TUPELO	MS
GPI	GLACIER PARK INTL	KALISPELL	MT
EWN	COASTAL CAROLINA REGIONAL	NEW BERN	NC
HKY	HICKORY RGNL	HICKORY	NC
INT	SMITH REYNOLDS	WINSTON SALEM	NC
ISO	KINSTON RGNL JETPORT AT STALLINGS FLD	KINSTON	NC
JQF	CONCORD RGNL	CONCORD	NC
ASH	BOIRE FIELD	NASHUA	NH
TTN	TRENTON MERCER	TRENTON	NJ

(149 FCTs)

FAA ID	Facility Name	City	State
AEG	DOUBLE EAGLE II	ALBUQUERQUE	NM
SAF	SANTA FE MUNI	SANTA FE	NM
ITH	ITHACA TOMPKINS RGNL	ITHACA	NY
RME	GRIFFISS INTL	ROME	NY
CGF	CUYAHOGA COUNTY	CLEVELAND	OH
OSU	OHIO STATE UNIVERSITY	COLUMBUS	OH
TZR	BOLTON FIELD	COLUMBUS	OH
LAW	LAWTON-FORT SILL RGNL	LAWTON	OK
OUN	UNIVERSITY OF OKLAHOMA WESTHEIMER	NORMAN	OK
PWA	WILEY POST	OKLAHOMA CITY	OK
SWO	STILLWATER RGNL	STILLWATER	OK
OTH	SOUTHWEST OREGON RGNL	NORTH BEND	OR
PDT	EASTERN OREGON RGNL AT PENDLETON	PENDLETON	OR
SLE	MCNARY FLD	SALEM	OR
TTD	PORTLAND-TROUTDALE	PORTLAND	OR
CXY	CAPITAL CITY	HARRISBURG	PA
LBE	ARNOLD PALMER RGNL	LATROBE	PA
LNS	LANCASTER	LANCASTER	PA
CRE	GRAND STRAND	NORTH MYRTLE BEACH	SC
GYH	DONALDSON CENTER	GREENVILLE	SC
HXD	HILTON HEAD	HILTON HEAD ISLAND	SC
MKL	MC KELLAR-SIPES RGNL	JACKSON	TN
NQA	MILLINGTON RGNL JETPORT	MILLINGTON	TN
BAZ	NEW BRAUNFELS MUNI	NEW BRAUNFELS	TX
BRO	BROWNSVILLE/ SOUTH PADRE ISLAND INTL	BROWNSVILLE	TX
CLL	EASTERWOOD FIELD	COLLEGE STATION	TX
CNW	TSTC WACO	WACO	TX
CXO	LONE STAR EXECUTIVE	HOUSTON	TX
GTU	GEORGETOWN MUNI	GEORGETOWN	TX
HYI	SAN MARCOS MUNI	SAN MARCOS	TX
RBD	DALLAS EXECUTIVE	DALLAS	TX
SGR	SUGAR LAND RGNL	HOUSTON	TX
SSF	STINSON MUNI	SAN ANTONIO	TX
TKI	COLLIN COUNTY RGNL AT MC KINNEY	DALLAS	TX
TYR	TYLER POUNDS RGNL	TYLER	TX
VCT	VICTORIA RGNL	VICTORIA	TX
OGD	OGDEN-HINCKLEY	OGDEN	UT
PVU	PROVO MUNI	PROVO	UT
LYH	LYNCHBURG RGNL/ PRESTON GLENN FLD	LYNCHBURG	VA
OLM	OLYMPIA RGNL	OLYMPIA	WA
RNT	RENTON MUNI	RENTON	WA
SFF	FELTS FIELD	SPOKANE	WA
TIW	TACOMA NARROWS	TACOMA	WA
YKM	YAKIMA AIR TERMINAL/ MCALLISTER FIELD	YAKIMA	WA
CWA	CENTRAL WISCONSIN	MOSINEE	WI
EAU	CHIPPEWA VALLEY RGNL	EAU CLAIRE	WI
ENW	KENOSHA RGNL	KENOSHA	WI

(149 FCTs)

LOC ID	Facility Name	City	State
JVL	SOUTHERN WISCONSIN RGNL	JANESVILLE	WI
LSE	LA CROSSE MUNI	LA CROSSE	WI
MWC	LAWRENCE J TIMMERMAN	MILWAUKEE	WI
OSH	WITTMAN RGNL	OSHKOSH	WI
UES	WAUKESHA COUNTY	WAUKESHA	WI
HLG	WHEELING OHIO CO	WHEELING	WV
LWB	GREENBRIER VALLEY	LEWISBURG	WV
PKB	MID-OHIO VALLEY RGNL	PARKERSBURG	WV

(16 FCTs)

LOC ID	Facility Name	City	State
ASG	SPRINGDALE MUNI	SPRINGDALE	AR
ROG	ROGERS MUNI-CARTER FIELD	ROGERS	AR
MWA	WILLIAMSON COUNTY RGNL	MARION	IL
BMG	MONROE COUNTY	BLOOMINGTON	IN
MIE	DELAWARE COUNTY RGNL	MUNCIE	IN
GCK	GARDEN CITY RGNL	GARDEN CITY	KS
JXN	JACKSON COUNTY- REYNOLDS FIELD	JACKSON	MI
JEF	JEFFERSON CITY MEMORIAL	JEFFERSON CITY	MO
JLN	JOPLIN RGNL	JOPLIN	MO
GRI	CENTRAL NEBRASKA RGNL	GRAND ISLAND	NE
HOB	LEA COUNTY RGNL	HOBBS	NM
ADM	ARDMORE MUNI	ARDMORE	OK
IPT	WILLIAMSPORT RGNL	WILLIAMSPORT	PA
FWS	FORT WORTH SPINKS	FORT WORTH	TX
GPM	GRAND PRAIRIE MUNI	GRAND PRAIRIE	TX
ALW	WALLA WALLA RGNL	WALLA WALLA	WA