



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

Western-Pacific Region  
Airports Division

San Francisco Airports District Office  
2999 Oak Rd, Suite 200  
Walnut Creek, CA 94597

January 25, 2023

Mr. Robb Etnyre  
Airport Manager  
Truckee Tahoe Airport  
10356 Truckee Airport Rd.  
Truckee, CA 96161

Dear Mr. Etnyre:

Re: Truckee Tahoe Airport (TRK);  
Section 163 Review of Proposed Release and Land Exchange

This letter is in response to the Truckee Tahoe Airport (TRK) request to provide a Section 163 evaluation for decision-making authority prior to further environmental review of a proposed property exchange project.

Recent changes in federal law have required the FAA to revisit whether FAA approval is needed for certain types of airport projects throughout the nation. On October 5, 2018, HR 302, the "FAA Reauthorization Act of 2018" (the Act) was signed into law (P.L. 115-254). In general, Section 163(a) limits the FAA's authority to directly or indirectly regulate an airport operator's transfer or disposal of certain types of airport land. However, Section 163(b) identifies exceptions to this general rule. The FAA retains authority:

1. To ensure the safe and efficient operation of aircraft or safety of people and property on the ground related to aircraft operations;
2. To regulate land or a facility acquired or modified using federal funding;
3. To ensure an airport owner or operator receives not less than fair market value (FMV) in the context of a commercial transaction for the use, lease, encumbrance, transfer, or disposal of land, any facilities on such land, or any portion of such land or facilities;
4. To ensure that that airport owner or operator pays not more than fair market value in the context of a commercial transaction for the acquisition of land or facilities on such land;
5. To enforce any terms contained in a Surplus Property Act instrument of transfer; and
6. To exercise any authority contained in 49 U.S.C. § 40117, dealing with Passenger Facility Charges.

In addition, Section 163(c) preserves the statutory revenue use restrictions regarding the use of revenues generated by the use, lease, encumbrance, transfer, or disposal of the land, as set forth in 49 U.S.C. §§ 47107(b) and 47133.

Section 163(d) of the Act limits the FAA's review and approval authority for Airport Layout Plans (ALPs) to those portions of ALPs or ALP revisions that:

1. Materially impact the safe and efficient operation of aircraft at, to, or from the airport;
2. Adversely affect the safety of people or property on the ground adjacent to the airport as a result of aircraft operations; or
3. Adversely affect the value of prior Federal investments to a significant extent.

### Proposed Project

Truckee Tahoe Airport is proposing the following release and land exchange:

The Truckee Tahoe Airport District (TTAD) proposes to release 35.63 acres of (TRK Parcel B) airport property in exchange for several parcels of Tahoe-Truckee Sanitation Agency (TTSA) property consisting of for two properties totaling approximately 30.52-acres, Parcel A (28.24 acres), and Parcel A1 (2.28 acres) and an Avigation Easement for Parcel C (10.34 acres).

Due to potential FAA wildlife hazard attractant concerns, TTSA will need to clearly identify the proposed use of Parcel B airport property.

Due to number of existing tree obstacles on TTSA land, information should be provided regarding responsibility for any existing obstacle mitigation on Parcel A, A1, C (See Grant Assurance #19, Operation and Maintenance; Grant Assurance #20, Hazard Removal and Mitigation; and Grant Assurance #25, Airport Revenue).

### The FAA's Determination Regarding Changes to the Airport Layout Plan (ALP)

For the purpose of determining whether the ALP change for the proposed release and land exchange at Truckee Tahoe Airport requires FAA approval, the San Francisco Airports District Office (SFO-ADO) has the following determination:

The proposed property release and land exchange materially affects Section 163 zones of interest and may affect the Runway Protection Zone (RPZ), approach/departure obstruction clearance surfaces (OCS), and related flight procedures. Further, the FAA has determined that the proposed land exchange may affect the safety of people or property on the ground related to aircraft operations. Therefore, the FAA retains the legal authority to approve or disapprove changes to the TRK ALP for the proposed land exchange.

Further, Parcel B was not described as a proposal for an independent release/sale of the parcel. As such, it is part of the proposed overall in-kind exchange proposal and would require an update to the ALP in a single action.

The SFO-ADO has determined that the FAA retains ALP approval authority. Section 163 guidance states that if the FAA ALP authority is triggered for a portion of a proposed project, and the project cannot be whole without other components of the project, then FAA retains ALP approval authority over the entire project.

Accordingly, the Sponsor will need to update the TRK Airport Layout Plan to accurately reflect the future dedicated airport boundary. Any related future obstacle removal should also be identified on the updated ALP drawing set. The Exhibit "A" Airport Property Map will also need to be updated to reflect new airport boundaries and parcel information.

#### FAA's Authority to Regulate Land Use

TRK Parcel B is a 35.63 acre portion of dedicated airport property, reflected as located within Exhibit "A" Airport Property Map Parcel #12a (APN-49-004-11; total 106.9 acres). TRK Parcel #12a (Parcel B is a portion thereof) was not purchased with federal funds.

Parcel	Parcel Ownership and Acquisition Form	Exchange Acres
<b>B</b>	Owned by TRK/TTAD (located on Parcel 12a; APN-49-004-11; existing size of 106.9 acres); proposed disposal of a portion (35.63 acres) to TTSA – Fee Simple disposal	35.63
<b>A</b>	Owned by TTSA; proposed for exchange – TRK Fee Simple acquisition	28.24
<b>A1</b>	Owned by TTSA; proposed for exchange – TRK Fee Simple acquisition	2.28
<b>C</b>	Owned by TTSA; proposed for exchange – TRK RPZ Avigation Easement acquisition	10.34

Parcels B, A, and A1 were acquired with local funding, without federal assistance, and the proposed land exchange will not impact the safe and efficient operation of aircraft or safety of people and property on the ground related to aircraft operations. The FAA lacks the authority to regulate the use of the land associated with the proposed land exchange.

The Parcel C portion of the proposed land exchange may affect the safety of people and property on the ground related to aircraft operations. FAA retains the authority to regulate the use of the land associated with the project. However, because the Parcel C portion of the proposed land exchange is intended for aeronautical-use purposes, no change in land use is required in this case. Therefore, FAA approval is not needed for the proposed uses of land associated with this proposed land exchange.

#### Applicability of the National Environmental Policy Act (NEPA)

The FAA's ALP approval authority for the proposed land exchange is a federal action subject to the National Environmental Policy Act (NEPA). Therefore, the sponsor will be required to perform an appropriate level of environmental review for the proposed action. Contact the SFO-ADO for guidance on preparing the environmental document for these actions.

### Sponsor Obligations Still In Effect

This determination only addresses FAA's approval authority for this project. It is not a determination that the project complies with the sponsor's federal grant assurances. The sponsor must continue to comply with all of its Federal grant obligations, including but not limited to Grant Assurance #5, Preserving Rights and Powers; Grant Assurance #19, Operation and Maintenance; Grant Assurance #20, Hazard Removal and Mitigation; Grant Assurance #21, Compatible Land Use; and Grant Assurance #25 Airport Revenue.

Section 163 and Grant Assurance 25 require the airport sponsor to receive not less than fair market value for the use, lease, encumbrance, transfer, or disposal of land, any facilities on such land, or any portion of such land or facilities. The sponsor must ensure that all revenues generated as a result of this project may only be expended for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport.

The sponsor also has the responsibility to comply with all federal, state, and local environmental laws and regulations.

Additionally, Grant Assurance 29 still requires the airport to update and maintain a current ALP. An updated ALP should be submitted to the SFO ADO if the project is completed.

This is a preliminary determination, and does not constitute a final agency action or an "order issued by the Secretary of Transportation" under 49 U.S.C. § 46110.

If you have any questions or need any assistance, please call me at 405 666-1063.

Sincerely,



Amy L. Choi  
Assistant Manager, San Francisco Airports District Office