



NEIGHBORHOOD NOISE

CITIZENS AGAINST AIRPORT POLLUTION, P. O. BOX 26142, SAN JOSE, CA 95159 (408) 380-5806 JULY 2001

A WING AND A PRAYER prevails...

The court found the Plaintiff "likely to prevail on its claim that the Noise Program's distinction among general aviation aircraft on the basis of weight is unjustly discriminatory and is thus inconsistent with federal law."

However, the judge did NOT take the "drastic step" of invalidating the curfew.

Instead, Ellison has prevailed to the extent that the City is enjoined from refusing to grant him a waiver of the curfew provisions of the Noise Program pursuant to section X(B)(2) of the Noise Program. Section X(B)(2) permits operators of general aviation aircraft to seek authority from Ralph Tonseth, director of aviation, to operate during curfew hours.

After the judge urged Tonseth to grant the waiver, Tonseth refused on two grounds, both of which the court essentially found to be baseless.

First, the City argued that X(B)(2) is applicable only to Stage 1 and Stage 2 non-transport aircraft. The judge found that this purported limitation was not only nonsensical, it was not found in the text of the resolution.

Second, the City argued that Tonseth could not exercise his discretion to grant Ellison a waiver because doing so would compel the airport to permit operations by commercial airlines during curfew hours. This was also the mayor's argument in the newspaper. The judge rolled his honorable eyes at this argument noting that section X(B)(2) expressly applies only to "general aviation" aircraft.

It's a narrow ruling tailored specifically to Ellison but it does appear to open the door for future litigation to undo the curfew.

RECENT DEVELOPMENTS

What's Ahead for CAAP

Recent revelations that the noise projections, contained in the airport Environmental Impact Report, are erroneous, raises an integrity question. After millions of dollars spent on airport planning, how was such a huge mistake made in the first place? What can be done legally to correct these dramatic misrepresentations? CAAP will review the legal options to force the City to full and accurately disclose the negative environmental impacts for future airport development.

In addition, the federal court in San Jose has recently ruled that the airport curfew is illegal under federal law as it applies to Larry Ellison's jet airplane. The City of San Jose has told citizens for many years that the curfew was legal and enforceable. Federal Judge Jeremy Fogel didn't agree.

This ruling makes it essential that a supplemental Environmental Impact Report (EIR) be undertaken to evaluate air quality and noise impacts, assuming that the airport curfew is invalid. In the past, the City has refused, claiming that the curfew was enforceable and available to protect the neighborhoods. CAAP has long argued that the curfew may be vulnerable to a legal challenge. As such, before airport expansion is completed, citizens deserve to know what environmental impacts will arise if the curfew is unenforceable legally.

CAAP will call upon the City to openly evaluate all the negative environmental impacts arising from airport development, with and without the curfew. If the city refuses, we may have to go to court.

PLEASE HELP!

If you are receiving a duplicate newsletter, need to make an address correction, or want your name removed from our roster, call 408-380-5806 or email us at info@caap.org.

DONATIONS NEEDED!

CAAP is now over ten years old! Thousands of hours have been donated by its volunteer leaders and members. *CAAP is the only neighborhood organization committed to promoting sensible growth at the airport and protecting the quality of life in our neighborhoods.*

We need your financial support. In order to be effective at City Hall we must be able to hire legal counsel to protect your interests - all of our interests. No one else will do it for you. CAAP views a lawsuit as a last resort. However, in order to protect the neighborhoods from ever worsening noise and air pollution at the airport, we must be in a position to take the City to court.

Please help us to be successful. Hundreds of people have made contributions over the years. We have now come to a point where your financial support is critical. Please send a check, or better yet, consider making a pledge to CAAP or monthly payment, right along with your rent or mortgage payment. If everyone joins together, we can continue to be successful.

Thank you!

"Never doubt that a small group of thoughtful committed citizens can change the world. Indeed, it's the only thing that ever has."

- Margaret Mead -

AIRPORT ADVOCATE

Councilman Ken Yeager's proposal for an advocate for the community on airport issues has been approved with modifications. The Ombudsperson will work for the Airport Department. A new Airport Neighborhood Task Force will provide the independence and accountability that the position requires. The position will be evaluated in a year to see if this arrangement is in the best interest of the community.

CAAP HAS CONNECTIONS

US-Citizens Airport Watch (CAW) has country wide affiliations: San Jose's CAAP, Seattle, Chicago, Minneapolis, Baltimore, Atlanta and many others as well as international partners. US-CAW is headquartered in Chicago where O'Hare airport presents major problems of noise, air and water pollution to 98 communities within a 32 mile radius of the airport. Their website (<http://www.US-CAW.org>) contains numerous links to airport-aircraft noise and emission studies affecting health and the environment.

AIRPORT EXPANSION UPDATE

Runway 30 Right - estimated to be completed in October, 2001.

Runway 30 Left - estimated to begin shortly afterward and to be completed in the year 2002.

Federal Inspection Station (FIS) - under construction and estimated to be completed in mid-2002

Passenger Terminals - if approved by the City Council construction could begin in summer 2002 for completion in summer 2007 if the Council declares Highway #87 and three airport approaches within two years of completion.

Roadways - a two level roadway linking the passenger terminals is under design and is part of the terminal project. No date for completion.

BART - not planned for the airport and the closest station may be threatened by Arcadia's proposed project on FMC site.

AIRPORT FAST FACTS

1968 - 1 million passengers
1973 - 2 million passengers
1977 - 3 million passengers
1990 - 6 million passengers
2001 - 13 million passengers

\$150,000,000 already spent to relocate residents and insulate homes from noise.

\$50,000,000 more needed to soundproof Guadalupe/Washington Neighborhood.

"It's a mistake to let the current downturn distract us from the truth that Silicon Valley's long-term problem is not jobs, but preserving a quality of life that is threatened by our success."

Rob Elder
Editor, San Jose Mercury News

CANCER MAPS

Do you ever wonder about the quality of the air that you breathe? Take a look at the Cancer Map for the Southbay at:

http://www.svtc.org/ecomaps/svtc_cep/allhap2.htm



LEGISLATIVE REVIEW

Here is a review of important aviation-related legislation that has been introduced at the start of the 107th Congress.

H.R. 1734 -- Introduced 5/01 by Rep. Sweeney to establish consumer protections for airline passengers and to promote air carrier competition

H.R. 1288 -- Introduced 3/01 by Rep. Kelly to declare that airport noise or access restrictions on the operation of stage 2 and stage 3 aircraft shall not apply to a local restriction limiting the hours of operation of an airport.

H.R. 1116 Quiet Communities Act -- Introduced 3/01 by Congressional Air Noise Caucus Chair Lowey to reestablish the Office of Noise Abatement and Control in the Environmental Protection Agency

S. 415 Aviation Competition Restoration Act -- Introduced 2/01 by Senate Commerce Ranking Member Hollings and Chair McCain to require that air carriers meet public convenience and necessity requirements by ensuring competitive access by commercial air carriers to major cities.

THINKING ABOUT TOMORROW!

CAAP recently met with several neighborhood representatives, ATRA (Airport Traffic Relief Alliance) spokespersons and Councilman Yeager's chief assistant to discuss recent events regarding aircraft noise and the curfew.

Consensus is that the new proposed concourse is a Terminal. How a concourse 7920' long, and 180' wide, which amounts to over 1.4 million square feet, will conform to the 770,000 square foot allowance for terminals in the 1998 Airport Master Plan Implementation Ordinance remains to be explained.

Besides the curfew's integrity, much of our discussion centered on the greatly expanded 65 CNEL (community noise equivalent level) boundaries. Despite the EIR predictions of a "shrinking" 65 CNEL boundary, the opposite has occurred. The estimated number of dwellings impacted has increased from 1,175 to 1,217. Director Tonseth's response was, "We will sound proof more houses."

We have requested that the City redo the Airport Master Plan EIR for noise, based upon the expanded noise contours and the weakened curfew. We also urged the Mayor and City Council to determine how their consultants' predictions could be so wrong.

The 1984 Noise Control Program does not allow airplane engine run-ups during curfew hours. In 1990 Director Tonseth granted a blanket waiver to airlines operating at SJIA. Extensive documentation is necessary to grant even one waiver. CAAP was provided with information, requested under the California Public Records Act, that indicates that there was no documentation and Director Tonseth granted waivers on his own initiative.

In 1994, through a negotiated settlement with the City, CAAP urged a Hush House to curb run-up noise. A recent "Peer Review Symposium" held with attending large airport managers, reported astonishment that SJIA had no Hush House, a "must" for an airport located in the City's center core. SJIA has a long way to go reverse its image as a Bad Neighbor!

Exposing Airports' Poison Circles

by Sharon Ruth Skolnick
Earth Island Journal

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If you live within six miles of an airport, you are at heightened risk of dying prematurely from environmentally induced cancer. The culprit is the pollution spewing from jet aircraft, ground vehicles and airport maintenance operations.

Jack Saporito, President of the US Citizens Aviation Watch Association (CAW) - a coalition of concerned municipalities, environmental and grassroots groups, aligned with 27 like-organizations around the world - points to studies that have linked airport pollution to cancer, asthma, liver

damage, lung disease, lymphoma, depression, myeloid leukemia and tumors. According to CAW, the impacts of airport pollution can effect people "living and working at distances greater than 30 miles from the facility." Today, 70 percent of US residents live within 20 miles of a major airport.

Airport critics are frustrated by the lack of official concern. "We have the sources, we have the pollutants in great amounts, we have the sick and dead people," says Saporito. "We just haven't linked it all together yet in an epidemiological study."

But a mounting number of studies clearly suggest that airport pollutants have become chemical grim reapers, gradually sickening and killing nearby residents. Data from the Washington Health Department Census, which compared 1991-95 illness-and-

mortality rates for residents near the Seattle-Tacoma (Sea-Tac) airport with those of Seattle overall, found that infant mortality near the airport was 50 percent greater, heart disease was 57 percent greater, cancer deaths were 36 percent greater (31 percent of those were lung cancer) and deaths from all causes were 48 percent greater. Average life expectancy for airport neighbors was 70.4 years, compared to Seattle's average of 76 years.

In August, a study by Environ International Corp. detected 219 volatile compounds in the air around Chicago's O'Hare International Airport and estimated the resulting cancer risk for people living near the airport as five times higher than the regional average. As an attorney for concerned airport neighbors put it, the Environ study proves that O'Hare "is the number-one toxic polluter in the state of Illinois."

CAAP's Steering Committee:

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Task Force Members:

Sandy Bauer	Web Mistress	webmistress@caap.org
Carrie Moley	Newsletter Advisor	

YES! I want to flight Airport Pollution!

Please apply the enclosed donation _____ \$ Other _____ \$500
toward the **Neighborhood Defense Fund***: _____ \$250 _____ \$100
_____ \$35 Dues _____ Monthly Pledge

Name: _____

Address: _____

Phone: _____ E-mail: _____

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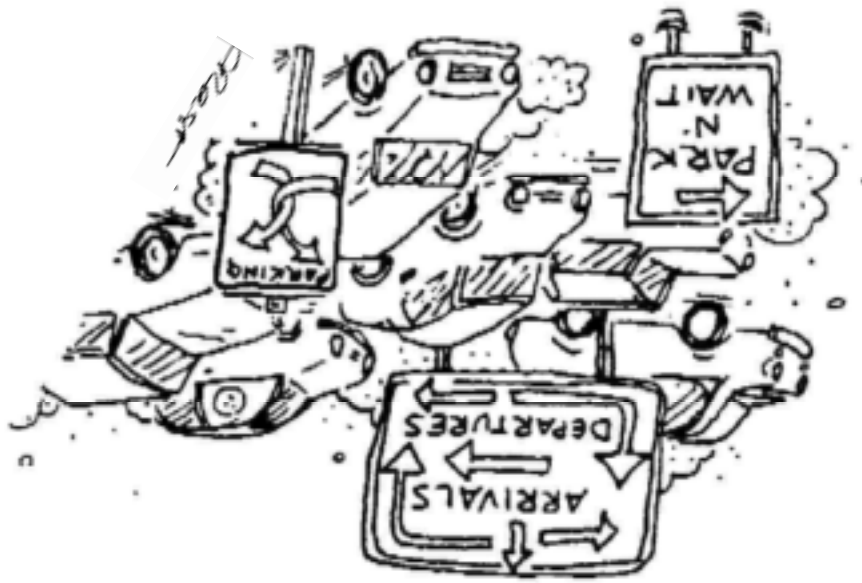
_____ I have also included my annual support of \$35.00

* CAAP is required by law to disclose the occupation and employer of those who contribute more than \$99.

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Check our our website at: <http://www.caap.org>





CAAP

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New Phone!
408-380-5806

ADDRESS CORRECTION REQUESTED