

July 29, 2003

BY HAND

Secretary Ellen Roy Herzfelder
Executive Office of Environmental Affairs
Attention: MEPA Office
William Gage, EOEA #5484/8696
251 Causeway Street, Suite 900
Boston, MA 02114

RE: PROJECT NAME: L.G. Hanscom Field 2000 Final Environmental
Status and Planning Report
PROJECT MUNICIPALITIES: Bedford, Concord, Lexington and Lincoln
EOEA NUMBER: 5484/8696
PROJECT PROPONENT: Massachusetts Port Authority

Dear Secretary Herzfelder:

Thank you for the opportunity to comment upon the final 2000 Environmental Status and Planning Report (“ESPR”) for the L. G. Hanscom Field (“Project”). We represent SHHAIR (an acronym for Safeguarding the Historic Hanscom Area’s Irreplaceable Resources, Inc.), which is a non-profit corporation dedicated to preservation of the environmental and historic resources in the area of Hanscom Field. SHHAIR is concerned about the environmental impacts of activities at Hanscom Field.

The final 2000 ESPR falls short of being the comprehensive environmental analysis and roadmap that it should be. For the most part, it fails to inform the public when and under what circumstances an ENF or other MEPA review will be required. In many places, it provides generalities, where specifics are needed. It fails to explore additional means to mitigate environmental damage. It contains other shortcomings as well. Accordingly, pursuant to the Massachusetts Environmental Policy Act (G.L. c. 30, §§ 61-62H) and Section 11.09 of the MEPA regulations (301 CMR 11.00), we request that the Secretary require changes in the ESPR before certifying compliance with MEPA.

Description of Projects Likely to Require MEPA Review

The Secretary's Certificate on the draft ESPR required Massport to "identify and describe each project" within the five-year improvements program and identify those that would likely require individual MEPA review. Massport has, to a degree, named some such projects, but has not described them in any meaningful fashion. While Massport recognizes the statement in the Secretary's certificate that the "ESPR does not replace the MEPA review of specific projects at the site that exceed regulatory thresholds," its recognition is likely to be meaningless without some clear definition.¹

To its credit, Massport in some places does acknowledge the need for an ENF in one respect. ESPR 4-1, 4-3 (ENF would be required for additional public parking for the 2005 high growth and two 2015 scenarios).

Other statements are cryptic, such as the statement that the "RSA area for Runway 23 and the perimeter service roadway paving may require MEPA review." ESPR, p. 4-3 (emphasis added) See also, p. 9-7. The ESPR provides no details on the nature of the work, the linear or square footage to be affected, or the potential environmental impacts that will need to be assessed. Massport should describe these projects and disclose the facts that lead to the conclusion that MEPA review may be required and the facts that it believes suggest that MEPA review may not be required.

Massport anticipates "third party development of the Hangar One site, the Hangar 24 site, Pine Hill GA hangars and T-hangars." ESPR, p. 1-7. It claims (ESPR, p. 4-3) that the so-called "third party development" would not require MEPA/NEPA review. It provides no facts upon which the public can assess that claim. The brief reference to these projects does not give a range of square footage that may be developed, the nature of the potential development, or the purposes that the development will serve. It does not disclose the identity of the "third-parties" who plan such development (which would give some information about the purposes of the changes). Yet the ESPR raises the real likelihood that the development will involve significant changes in how the airport is used, since increased hangar space reflects growth at the airport,

¹ Over the past five years, several disputes have arisen over whether Massport was required to file an ENF or engage in supplemental environmental review as a result of changes at Hanscom. One such dispute arose from Massport's decision to apply for certification from the Federal Aviation Authority to handle commercial operations using airplanes with over 50 seats. That decision led to a great increase in commercial passengers beyond previously forecasted levels (ESPR, p. 3-3, third bullet), which was not analyzed in the 1995 GEIR or otherwise in advance. Another arose from Massport's contract for improvements to the parking area – which appeared to SHHAIR and HATS to be designed to handle a substantial increase in the amount of parking at Hanscom. In both cases, there was a dispute over the "existing" or baseline level of activity that had already received environmental review. In the case of the parking project, Massport essentially disclaimed its prior environmental filings and posited a new level of "existing activity."

either in numbers or sizes of planes, or in increased cargo operations, or other features requiring additional space. The Secretary should require disclosure of all these facts and analyses, to allow the public to assess the potential impacts and the need for environmental review.

The hangar development issues also raise legal concerns. The ESPR fails to explain how Massport came to the conclusion that no MEPA review will be required, although it hints that each development would be considered as a separate segment, rather than as an overall plan or trend toward development. Yet, Massport's control over the entire development plan is evident from its ownership and control of the airport, its statement that it "supports" the hangar development and other admissions. For instance, Massport's claim (ESPR p. 4-7) that non-aviation uses at the airport are exempt from local zoning can only be true if the tenants' activities are taken in pursuance of Massport's public function on land of the commonwealth. See e.g. County Commissioners of Bristol v. Conservation Commission of Dartmouth, 380 Mass. 706, 710 -711 (1980).² Unless it wishes to subject those activities to local zoning, Massport must consider the development to be part of its public mission.

In a real sense, therefore, Massport has a significant role in the proposed developments. Moreover, as landlord or licensor supporting development on its land, and possessing control over such development, Massport shares responsibility for all of the developments, which therefore should not be treated solely as separate projects by individual third parties. It must be considered a project "proponent" of these activities. The facts surrounding the developments easily place Massport within the definition of a "proponent" under 310 CMR 11.02: "any Agency or Person, including a designee or successor in interest, that undertakes, or *has a significant role in* undertaking, a Project." (Emphasis added.)

In these circumstances, to treat the development projects separately would segment the analysis, in violation of 301 CMR 11.01(c). Rather, the proposed development should be evaluated in its entirety to determine whether MEPA filings and review are required. For example, Massport should not be able to evade the threshold for new or expanded air cargo buildings (100,000 s.ft.) simply by having one party expand 80,000 square feet and another party expand 30,000 square feet.

Regional Transportation Context

Apart from conceding that increased commercial activity would interfere with touch-and-go training, Massport has failed to comply with the Secretary's directive that it reveal "at what

² Compare Building Inspector of Lancaster v. Sanderson, 372 Mass. 157 (1977) (private party who used former land of the Commonwealth for airport purposes was not exempt from the zoning by law once he acquired the land, because he was not an agent of the Commonwealth, though licensed by the Massachusetts Aeronautics Commission).

Secretary Ellen Roy Herzfelder
Page 4
July 31, 2003

point would increased commercial traffic at Hanscom reduce its viability as the primary GA airport in the region, with potential domino effects on other airfields?" Secretary's December 16, 2002 Certificate, part VI.

Scenarios

SHHAIR strongly disagrees with Massport's statement that "it would be inappropriate to describe future scenarios by airline passenger levels." ESPR, p. 1-7. Massport does evaluate future airline passenger levels for Logan International Airport. ESPR, p. 3-4.

In fact, airline passenger levels have great significance for many of Hanscom's impacts, including the effects of traffic and, indirectly, of noise. As the HATS Environmental Subcommittee ("HATS-ES") notes, aircraft operations numbers can mask significant changes. A single take-off or landing may involve only one individual, or it may involve an aircraft holding scores of passengers. Indeed, where touch-and-go training operations are involved, ten operations may involve a single person. The differences in traffic impacts are major, but will not be captured by an analysis that relies upon "operations."

Likewise, changes in noise impacts will not be captured by Massport's data. Larger planes, carrying many passengers or cargo, will tend to generate more noise. Data on passenger levels will tend to reflect the increased use of larger and louder commercial aircraft. Additional projections, based upon fleet mix, would capture those impacts as well as impacts from increased cargo operations. The increasing number of jet flights— an eight-fold increase as calculated by HATS-ES — with increased weight and engine power, will have a major environmental impact on the National Park and area residents, which cannot be captured by Massport's analysis based upon "operations" alone. Number of operations will treat take-offs and landings of the smallest and largest planes identically, and therefore will be misleading.

Massport seems to assume that there is a single "gold-standard" for describing future scenarios, namely, the number of aircraft operations. It is not an either-or proposition. Massport can, and should, evaluate projections of both aircraft operations and passenger levels. Where, as here, the fleet mix and the nature of operations are changing, reliance upon numbers of airport operations will conceal the real changes to traffic and noise impacts. A true picture of Hanscom's impacts, and changes due to increased activity, can only emerge from an analysis of the various sources of those impacts. Where ground transportation responds to passenger levels, then projected ground transportation impacts should be evaluated according to projected passenger levels. SHHAIR therefore strongly urges the Secretary to require analysis of future scenarios by airline passenger levels.

New Airline Entrants

The discussion of the process for new airline entrants omits an important issue that has led to discord in the past: when is an ENF and EIR required for a change in the airport's role and fleet mix. The ESPR states that "new commercial service "must be consistent with the Master Plan and Massport Regulations." ESPR, p. 3-5.³ Does this mean that a proposal that is inconsistent with those regulations would be denied? Or that such an application would require the filing of an ENF? The regulations currently "prohibit passenger service at Hanscom with aircraft having a seat capacity greater than 60 seats." *Id.* Has Massport committed not to change these regulations prior to the 2005 ESPR? What restrictions, including MEPA requirements, require Massport to adhere to these commitments?

As for cargo service, the ESPR states only that proposals for new or expanded cargo service must be reviewed with the Hanscom Field Advisory Commission for "economic and noise emission implications." *Id.* Is Massport claiming that, after such a review, new cargo service has *carte blanche* to use Hanscom? Or is there a requirement to comply with MEPA by filing an ENF or amending the ESPR and, if so, at what point must those filings occur? These questions should not be left unanswered, as Massport will clearly expand whenever the opportunity exists, without complying with MEPA unless the requirements are clear. The answer under MEPA should be clear: any level of service, operations, cargo or passengers not reviewed in the 2005 scenarios cannot be implemented before the next ESPR, without an ENF or project change.

Consistency with Local Plans

Massport claims (ESPR at p. 4-7) that its non-aviation uses at Hanscom Field are "not subject to local zoning." Nothing requires Massport to ignore local bylaws in a discussion of consistency with local planning. On the contrary, a purpose of MEPA is to require agencies to explain why they refuse to respect local bylaws and ordinances, if they choose to do so. Massport should give a substantive response to the values incorporated in local zoning, rather than snub its nose.

³ The 1978 Hanscom Field Master Plan and Environmental Impact Statement articulated policies that "Certificated passenger air carrier operations will not be allowed at Hanscom Field, except in an emergency" and that "Prior to implementation of any new passenger commuter service, proposals for these operations will be thoroughly reviewed with the Hanscom Field Advisory Committee for their economic, noise emission and ground access implications." *Id.*, pp. 15, 17. It stated that the decision not to expand the airfield facilities and not to allow commercial carriers to use Hanscom minimized "the major potential environmental impacts of noise, air pollution and increased traffic congestion." *Id.*, p. 40. "In other words, in the investigation of a variety of alternatives, Massport rejected those options that would cause extensive environmental harm." *Id.*

Ground Transportation

The ESPR effectively acknowledges that transportation demand management measures will not realistically address the traffic generated by Hanscom in the foreseeable future. Such measures “will only be successful when they are regional in scope.” ESPR 1-9. Massport’s promise, later in the ESPR (p. 1-13) that it “will examine TDM measures to reduce roadway demand” therefore rings hollow. That promise, significantly, appears in the section discussing impacts on Cultural and Historical Resources, including most prominently the Minute Man National Historical Park. This underscores the need for other forms of traffic mitigation, such as limits on parking or on numbers of commercial passengers.

The ESPR continues to analyze only the peak hour conditions of the roads themselves around Hanscom, rather than the peak traffic generated by Hanscom.⁴ Both times of day are important to reflect the true environmental impact of Hanscom. The former evaluates the extent to which Hanscom contributes to the worst case; the latter assesses Hanscom’s worst (i.e. greatest) contribution to traffic. One should not assume that, simply because Hanscom contributes a relatively moderate percentage (3-4% on Route 2A, up to 15% on Route 2A in 2015) of traffic at rush hour that it does not degrade traffic conditions significantly. That is particularly true here, because peak visitor hours to the Minuteman National Park are not likely to be rush hour. Intersections may have more than ten percent of traffic from Hanscom at hours other than rush hour (compare Table 6-1(rush hour only), and degradation in Level of Service can also occur outside rush hour (compare Tables 6-4 and 6-5 (AM and PM peak only). Only by

⁴ A more meaningful analysis would consider both the times of peak Hanscom activity and the times of peak activity on adjoining roadways. Indeed, the morning traffic generated by Hanscom from about 6:30 to 7:30 peaks at over 300 vehicles (“Hanscom Peak”) – double what the draft ESPR calculates for the so-called AM peak hour, which begins only 15 minutes after the Hanscom peak. Draft ESPR Figure 6-3 on page 6-7. See id., page 6-6.

Standard guidelines direct the traffic engineer as follows:

Selection of the time period for the trip generation study is dictated by the purpose of the traffic impact assessment for which the estimate is being made. . . . Some land uses, however, do not peak at the same time as the adjacent streets (e.g. theaters, factory shift that ends at 3 P.M.). Therefore the analyst should test combinations of generator volumes and street volumes at different times to determine a site’s maximum and most critical, impact.

Institute of Transportation Engineers (“ITE”), Trip Generation Handbook, p. 4, part 2.4 (October 1998).

Site-generated traffic should be counted, if feasible, for a full seven-day period to determine when total site-generated traffic volumes peak during weekdays and during the weekend. At the minimum, automatic traffic recorder counts should be taken through a full 24-hour period, although a preferred length of time would consist of 48 consecutive hours.

Id., p. 19, item 4.3.

Secretary Ellen Roy Herzfelder
Page 7
July 31, 2003

looking at Hanscom's peak hours of contribution can Massport assess the peak impact of its traffic upon visitors to the Park, the setting of the Park, and traffic generally during the day.

Noise

Massport reports on nighttime operations. ESPR, ¶. 3-7. It provides no solutions to the problems created by noise at night, despite its recognition of the obvious fact that aircraft activity between 11 p.m. and 7 a.m is "the most intrusive." ESPR, ¶. 1-10, 7-14. The question arises: why is there any non-emergency activity between those hours?

Massport asserts that it "encourages quiet flying techniques" and has a "particular emphasis on discouraging 11 pm to 7 am aircraft activity. . . ." On page 7-11, it states that it "discourages operators from conducting nighttime run-ups." It offers no reason why, as airport operator, it allows any night-time activity or run-ups at all (apart from emergencies). "Discourag[ement]" and "encourage[ment]" are particularly weak responses to nighttime noise problems. Massport should take all feasible steps to avoid, prevent or at least minimize noise from such operations. The ESPR should document what steps it has taken and explain why other steps were not taken. If there is a need for federal approval, Massport should explain what it has done, or will do, to try to seek such approvals. The problem does not appear to be lack of authority to regulate noise, however. Massport seems to be able to prohibit use of APUs and GPUs between 11 pm and 7 am "unless part of takeoff procedures or necessary maintenance procedures." ESPR, p. 7-11. It is unclear why it cannot also require all non-emergency, noise-generating activities to take place outside that time frame.

Massport has failed to respond to the Secretary's Certificate, urging it to "investigate how" the Fly Friendly program's principles "can be extended to reduce the noise impacts of commercial flights as well. Massport shall report its recommendations in this area in the FESPR." Strangely, the discussion of the "fly friendly" program at page 7-14 of the ESPR omits any discussion of applying the same principles to commercial operators.

Massport has ignored or evaded comments of the Hanscom Noise Working Group, as set forth in the comments of the HATS-ES. In addition, Massport acknowledges that it has refused to include several measures proposed by the Hanscom Noise Work Group, including M8 (a linear dimension less metric to show exposure to noise energy); M8 (a discussion of estimated variation in Integrated Noise Model results due to different modeling assumptions, including error bands and a comparison or measured and results with an explanation of the differences); M11 and M12 (relocation and addition of noise monitoring sites) and M13 and 14 (correlation of noise events with flight data and complaints, stored on a web site). The explanations for these refusals are unconvincing and evasive. They range from the claim that a given metric (M4) is not "used regularly", that the "real goal is to compare alternative growth scenarios (M8), that the issues should be addressed "outside the scope of the ESPR" (M11 and 12) and installation of new

systems “at a future date.”

There is no reason why these noise evaluation and explanation measures should be ignored in an ESPR, which is designed to describe and evaluate “historical environmental information, current information, and the forecast of future environmental effects at Hanscom Field.” Secretary’s Certificate, December 16, 2002 at p. 3. Massport’s justifications result from a far narrower view of the information required by the ESPR process than envisioned by the Secretary’s Certificate. In reality, Massport’s attempt to narrow the ESPR process and divert discussion “outside the scope of the ESPR” amounts to a perpetual tabling of these issues, which have not seen - - and will likely never see - - the light of day, unless the Secretary rules otherwise.

SHHAIR strongly disagrees with Massport’s rejection (ESPR, p. 7-7) of the Lmax 90 dBA contour. As Figure 7-3 demonstrates, the contour does a good job of describing the distribution of loud airport-related noise throughout most of the four communities in which the airport is located. Massport’s complaint that the contour will not change regardless of the number of times the loudest aircraft (Gulfstream II) fly simply means that additional information will help interpret the chart over time – in particular, Massport should report how often the Gulfstream II (or other loudest aircraft) operates on each flight track. If the data show that the loudest aircraft are, indeed, rarely used, then the Lmax 90 dBA contour the next loudest, but regularly used aircraft, should be mapped. Together, the chart and data will provide an excellent account of the most intrusive noise events and their frequency, both at present and over time.

SHAAIR also agrees with the HATS-ES analysis of noise. For instance, the FEIR’s discussion of impacts upon “Noise Sensitive Locations” (ESPR, ¶. 7-9 to 7-11) is insufficient. The DNL measure understates noise impact in this context, because it gives greatest weight to night-time noise, but the historic resources are visited in the day. A noise measure adapted to show the daytime noise levels of the airport and their impact at the time of historic park use is needed. Moreover, the ESPR fails to disclose the significant increase in Time Above 55dBA projected for the 2005 and 2015 scenarios. Moreover, as Massport acknowledges, airport noise is noticed when it equals or exceeds ambient levels. Massport should report noticeable aircraft noise by revealing where projected noise will exceed ambient noise by a standard amount, such as 5 dBA, a threshold frequently used in planning and development. Finally, HATS-ES is certainly correct that Massport should place noise monitors at specific sensitive locations affected by the airport’s noise.

Wetlands/Water/Wildlife

The Certificate specifically required the FESPR to “report on the current status of airport planning for [the runway safety] area, including a discussion of FAA standards, waiver possibilities , and the magnitude of environmental impacts associated with any planned safety

work.” The two-sentence discussion of the runway safety area, buried in a discussion of the Hartwell Forest (ESPR, p. 9-7; see also p. 1-12 and 1-13) fails to discuss the status of planning, FAA standards, waiver possibilities or the magnitude of the impacts. In other words, it simply ignores the Certificate.

Mitigation

The ESPR is particularly thin on mitigation. That includes mitigation for noise impacts. As noted above, Massport should not merely encourage quiet flying techniques, but should take all measures within its power (including requesting necessary authority from the FAA) to eliminate all noise at night, beyond what may be necessary on an emergency (i.e. unanticipated and urgent) basis.

Massport should incorporate all recommendations of the Hanscom Noise Work Group and must commit to continuing to work with a follow-up group in conjunction with representatives of the towns and groups representing affected citizens.

While participation in Transportation Demand Opportunities is to be commended, the list of potential TDM opportunities listed in the ESPR at page 12-7 are underwhelming. They consist of public transit (to wit, Bus Route 76, a minor contributor indeed, see ESPR, p. 6-11 to 12 and 13); bicycle racks; rideshare information websites and parking fees. Roundabouts are, thankfully, omitted as being inconsistent with the Minute Man National Historical Park, but the problems that led to consideration of roundabouts in the first place still remain.

One area in which the Secretary requested more analysis was the use of parking fees at Hanscom as a TDM measure. ESPR, p. 6-12. The ESPR hardly discusses the issue, beyond saying that the “opportunity exists” and that infrastructure will be installed. *Id.* See also ESPR, p. 12-7. A study is needed, to determine whether fees would encourage a shift to car pooling or shared ride services by students and air passengers, or whether it will increase trips because of drop-off/pick up and use of taxi cabs. With the amount and timing of fees (if any) to be determined, it is impossible to determine whether they will have any effect, particularly when weighed against the high total cost of air travel, and the fact that many drivers work for companies that provide free parking to their employees⁵. The Secretary should not accept these minimal comments as meeting the requirement that parking fees be evaluated.

The Transportation Demand Management measures are so minor that Massport should look at more innovative and effective ways of limiting traffic, such as limiting the number of parking spaces or limiting numbers of commercial passengers.

⁵ For instance, 56% of survey respondents said that they parked in an employer’s parking area. ESPR 6-12.

Secretary Ellen Roy Herzfelder
Page 10
July 31, 2003

Comments

The Final ESPR does not meaningfully reply to SHHAIR's comments on the Draft ESPR, which are incorporated by reference herein.

Thank you for your consideration of this letter.

By its attorneys

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