



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

Western-Pacific Region  
San Francisco Airports District Office

1000 Marina Boulevard, Suite 220  
Brisbane, CA 94005-1835

May 28, 2015

Mr. Dan Jensen  
Airport Manager  
Gross Field Airport  
415 #A Airport Road  
Novato, CA 94945

Dear Mr. Jensen:

**Feedback Regarding County's Reply to Informal Complaint  
Gross Field Airport (DVO)**

The Federal Aviation Administration (FAA) San Francisco Airports District Office (SFO-ADO) received your October 3, 2014 letter, providing the County of Marin's (County) response to the Part 13.1 Informal Complaint on August 27, 2014, alleging the County is not complying with certain requirements of the Grant Assurances. Mr. Michael Knight informed the FAA that the County is essentially preventing him from operating his business, Skydive Golden Gate (SGG), at the Gross Field Airport (DVO).

As explained in our September 5, 2014 notification letter, Mr. Knight's allegations represent the County's potential conflict with Grant Assurance 5, Rights and Powers; Assurance 22, Economic Nondiscrimination; and Assurance 23, Exclusive Rights.

From our review of your response letter, subsequent discussions with you and Mr. Knight, and the passing of time, we conclude the County is basically denying Mr. Knight the right to begin his parachute operations at the airport. We found the County does not support skydiving at the airport because it perceives parachuting operations and the following factors would negatively impact the safe operations of the airport as well as the rights of nearby homeowners:

- variable high winds and local topography at the airport make entering or crossing inside the Airport traffic pattern unsafe;
- the skydiving landing zone located approximately 725 feet from Runway 31 landing threshold and 150 feet from the helicopter landing pad;
- a limited landing zone on the Airport property which is 120 by 550 feet, with private lands immediately adjacent of the landing zone; and
- violating the County's "good neighbor policy" from possible objects or people accidentally falling into a neighboring homeowner's property resulting from skydiving operations.

The SFO-ADO attempted to have the County informally resolve this issue with SGG by negotiating and producing an agreed plan for skydiving operations to occur at the Gness Field Airport. However, as time passed, we observe the County has stopped its negotiations with SGG for the reasons explained above and thereby, essentially restricting SGG access to the use of a public and federally obligated airport.

The following responds to County requirements disclosed in its letter and subsequent discussions with the County. The County's requirement that SGG must provide an off airport landing and retrieval plan that requires securing access from the neighboring private property owners is not reasonable and may violate Grant Assurance 22. In effect, SGG must negotiate with nearby homeowners for access onto their property instead of being allowed to negotiate for space on the airport. Thus, skydiving is being treated differently from other aeronautical activities of tenants who use the airport. Furthermore, the County proffers that skydivers create more risk of objects falling on homes, but does not provide evidence that this precautionary measure is necessary.

The County claims that skydiving activity cannot operate safely at the airport. For example, the County will require SGG to stop operations if wind speed exceeds 20 knots. The County disclosed that some airport users expressed safety concerns because skydiving would have a negative impact on the traffic pattern. The County also conveyed to our office that a Flight Standards District Office staff member visited the airport and agreed with the County that the parachute landing area may not be safely located on the airport as planned. The SFO-ADO requested that the County obtain a written safety assessment from the FSDO, which the County was not able to obtain.

The airport is supposed to be available on reasonable terms and without unjust discrimination to all kinds and classes of aeronautical activities, including parachuting. This means that different aeronautical activities have a right to use airports. Depending on circumstances, some airports will have a different mix of aeronautical activities compared to others. Ordinarily, airports cannot choose the mix of aircraft and aeronautical activities. In response to this reality, inconvenience to some operators and their fear of this new activity are not justifiable reasons to exclude some operators and claim the exclusion is based on safety reasons. For example, a flight school's unwillingness to share an airport with skydivers does not necessarily mean that the skydiving activity is unsafe or produces airport inefficiencies. As a matter of fact, it may provide a better environment for flight training if the mix of airport activities instills situational awareness in student pilots. Furthermore, the complete denial of airport access based on local user opinions is also not reasonable in the absence of objective data that might actually justify a denial.

The FAA's review of information obtained in this case appears to indicate that the County's requirements and denial of airport access may be unreasonable and unjustified. The requirements do not appear to represent clear justification for restrictions on an aeronautical activity that fully comply with Grant Assurance 22h and 22i.

In response to the County's stated position, we are not unsympathetic to the County's views, but we are also not convinced that the County's reasons for denying skydiving at DVO by not negotiating with SGG to skydive at the airport are entirely reasonable or fully justified. It is

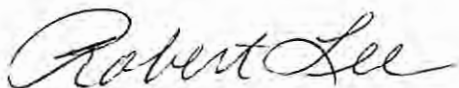
our sense that the County's denial of access may be unreasonable and represents unjust discrimination against parachuting.

Therefore, we are requesting a safety evaluation by FAA Flight Standards to determine whether or not skydiving can be integrated into airport operations at DVO in spite of the reasons presented by the County. Pending Flight Standards determination, this letter provides a preliminary informal determination by this office. It is not a final agency decision and is not judicially appealable.

Be aware that Mr. Knight could elect to submit his complaint under the Procedures for Formal Complaints described in Title 14, Code of Federal Regulations, Part 16, *Rules of Practice for Federally-Assisted Airport Enforcement Proceedings*, now that he has engaged in unsuccessful informal negotiations with the County. If the County will not reconsider its decision, a formal agency decision may be needed to determine the reasonableness of the County's airport access restriction.

We shall advise the County of our final informal determination as soon as possible after the safety evaluation is concluded. In the meantime, if you have any questions, please contact me at 650 827-7629 or robert.y.lee@faa.gov.

Sincerely,



Robert Lee  
Airports Compliance Specialist

cc: Mr. Michael Knight, Skydive Golden Gate  
Mr. Humphrey Ogg, Aviation Commission Chair  
Mr. Anthony Garcia, AWP-620