



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

Office of Airport Compliance and  
Management Analysis

800 Independence Avenue, S.W.  
Washington, D.C. 20591

**RECEIVED**

APR 08 2024

March 8, 2024

Ms. Susan Ellenburg  
President  
Santa Clara County Board of Supervisors  
Reid-Hillview Airport (RHV) and San Martin Airport (E16)  
*Via Email*

**PART 16 DOCKETS**

Re: Notice of Investigation for FAA Docket No. 16-24-02

Dear Ms. Ellenburg:

Enclosed please find a Notice of Investigation in the matter of compliance by Santa Clara County Board of Supervisors (County), sponsor and operator of Reid-Hillview Airport (RHV) and San Martin Airport (E16), FAA Docket No. 16-24-02. This investigation is being conducted under FAR Part 16, Rules of Practice for Federally Assisted Airport Enforcement Proceedings.

Under the Terms of this investigation, the County will have 30 days from the date of service to respond to this Notice. The FAA invites good faith efforts to resolve this matter informally.

Sincerely,

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Michael Helvey  
Director, Office of Airport Compliance  
and Management Analysis

Enclosure

UNITED STATES DEPARTMENT OF TRANSPORTATION **RECEIVED**  
FEDERAL AVIATION ADMINISTRATION  
WASHINGTON, D C

APR 08 2024

**IN THE MATTER OF COMPLIANCE  
WITH FEDERAL OBLIGATIONS  
BY THE COUNTY OF SANTA CLARA,  
CALIFORNIA, SPONSOR OF REID-  
HILLVIEW AIRPORT AND SAN MARTIN  
AIRPORT**



**PART 16 DOCKETS**

**FAA Docket No. 16-24-02**

**NOTICE OF INVESTIGATION**

Notice is hereby given to Santa Clara County Board of Supervisors (County), sponsor and operator of Reid-Hillview Airport (RHV) and San Martin Airport (E16), that the Federal Aviation Administration (FAA) is initiating an investigation, in accordance with the *FAA Rules of Practice for Federally Assisted Airport Proceedings*, 14 CFR §§ 16.101 and 16.103, into actions and inactions by the County that appear to lead to unsafe airfield conditions at RHV and E16.<sup>1</sup>

Specifically, the Director's investigation will determine whether the County's apparent failure to address ongoing airfield safety conditions at both airports violates FAA Grant Assurance 19, *Operation and Maintenance*, and 49 U.S.C. §§ 47107(a)(7). Although the County and the FAA entered into a Memorandum of Understanding (MOU) on February 9, 2023, intending to address ongoing unsatisfactory airfield conditions, to-date those airfield safety issues remain unresolved and the MOU expired on February 8, 2024.

**I. BACKGROUND**

RHV has 329 based aircraft and averages 573 operations per day.<sup>2</sup> E16 has 34 based aircraft and averages 46 operations per day.<sup>3</sup> The County, as sponsor of both E16 and RHV, has received approximately \$11.6M in Federal airport planning and development grants since 1983. For RHV, its most recent development grant was received in 2011 for taxiway rehabilitation (\$47,692), and E16 accepted a grant in 2021 for \$600,000.00 for runway/taxiway pavement joint repair. Receipt

<sup>1</sup> "Following the initiation of an investigation under § 16.101, the FAA sends a notice to the person(s) subject to investigation. The notice will set forth the areas of the agency's concern and the reasons therefor; request a response to the notice within 30 days of the date of service; and inform the respondent that the FAA will, in its discretion, invite good faith efforts to resolve the matter." 14 CFR § 16.103.

<sup>2</sup> <https://adip.faa.gov/agis/public/#/simpleAirportMap/RHV>.

<sup>3</sup> <https://adip.faa.gov/agis/public/#/simpleAirportMap/E16>.

of Federal grants by one or both airports become a binding contractual obligation on the County and compliance with its grant assurances is mandatory.

Since 2009, the FAA Western-Pacific Region Airport's Office and the County have frequently exchanged correspondence about the County's unresolved airfield maintenance and safety issues and reminding the County of its federal obligations under Grant Assurance 19, *Operations and Maintenance*, to continuously operate and maintain its airports in a safe and serviceable condition. Likewise, substantial evidence collected through FAA inspections, California Department of Transportation (Caltrans) site visits, Local Runway Safety Action Team (LRSAT) meetings conducted by the FAA reported airfield surface incidents and multiple user complaints spanning more than a decade document the ongoing unsafe conditions at RHV. These unresolved airfield safety issues established the basis for the FAA 14 CFR part 13.2 investigation and were part of the subject of the now-expired MOU entered into on February 9, 2023.

Additional airfield maintenance issues at E16 have also been documented through site visits, including unresolved burrowing by ground squirrels potentially impacting the airfield pavement, signage, and lighting.

## **II. APPLICABLE FEDERAL LAW AND POLICY**

The Federal role in civil aviation is established by various laws, some of which authorize programs that provide Federal funds and other assistance to local communities for the development of airport facilities. In each such program, the airport sponsor assumes certain obligations, either by contract or by restrictive covenants in property deeds and conveyance instruments, to maintain and operate its airport facilities safely and efficiently and in accordance with specified conditions. Commitments assumed by airport sponsors in property conveyance or grant agreements are important factors in maintaining a high degree of safety and efficiency in airport design, construction, operation, and maintenance, as well as ensuring the public fair and reasonable access to the airport.

### **a. The Airport Improvement Program (AIP)**

Federal statutory law, 49 U.S.C. § 47101 *et seq.*, provides for Federal airport financial assistance for the development of public-use airports under the AIP. As a condition precedent to providing airport development assistance under AIP, the FAA must receive certain assurances from the airport sponsor. These assurances are set forth in statute, 49 U.S.C. § 47107, along with additional assurances that are part of the grant agreement.

Upon acceptance of an AIP grant, the assurances become a binding contractual obligation between the airport sponsor and the Federal Government. The assurances made by airport sponsors in AIP grant agreements are important factors in maintaining a viable national airport system and a safe and efficient national airspace system. The FAA has statutory authority to enforce compliance with the sponsor assurances. FAA Order 5190.6, *FAA Airport Compliance Manual*, provides the policies and procedures to be followed by FAA in carrying out its functions related to compliance and enforcement.

**b. Grant Assurance 19, *Operation and Maintenance*.**

Grant Assurance 19, in relevant part, states:

(a) The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for nonaeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for-

- 1) Operating the airport's aeronautical facilities whenever required;
- 2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
- 3) Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.

(b) It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

**III. ISSUES UNDER INVESTIGATION**

The FAA's investigation under 14 CFR §§ 16.101 and 16.103 will determine whether the County is in violation of Grant Assurance 19, *Operations and Maintenance* and 49 U.S.C. § 47107(a)(7) by failing to correct unsafe airfield conditions at RHV. Issues to be investigated generally include, but may not be limited to, items identified in *Exhibit B* to the above-referenced MOU and the County's requirement to:

- Complete airfield signage and marking improvements agreed upon by the County and the FAA.
- Develop and implement a plan to consistently maintain all airfield markings in good condition at both RHV and E16.
- Develop a plan to update and implement the airport Pavement Maintenance Management program at both RHV and E16.

- Develop and implement a plan to conduct weed abatement and maintenance at RHV to avoid weed encroachment onto runway and taxiway pavements.
- Develop and implement a plan to identify potentially feasible airfield geometry changes that can effectively and economically address aircraft movements that may be a contributing factor to surface incidents and RHV and to address other non-standard conditions.
- Develop and implement a plan to adequately address wildlife issues at both RHV and E16.

#### **IV. OPPORTUNITY TO RESPOND**

Under 14 CFR § 16.103, the County must reply to this Notice no later than 30 days from service of this Notice. The FAA invites demonstrable good faith actions by the County to informally resolve the matters addressed in the Notice. Information provided by the County after the 30-day period may not be considered by the FAA. Possible noncompliance with Federal requirements is a serious matter. If the issues addressed in this Notice are not resolved within the 30-day time period, the FAA will issue a Director's Determination in accordance with 14 CFR § 16.31 making findings on the above-identified issues.

**MICHAEL W  
HELVEY**

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Michael Helvey, Director  
Office of Airport Compliance  
and Management Analysis

**March 8, 2024**

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Date