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May 17, 2016

Senator Elizabeth Warren
United States Senate
317 Hart Senate Office Building
Washington, DC 20510

Re: **FAA Community Accountability Act of 2016**

Dear Senator Warren:

Thank you for introducing the FAA Community Accountability Act of 2016 to address the negative impacts to communities caused by the FAA's NextGen program. On behalf of the citizens of Milton, we appreciate your attention to and action on this important issue.

We write to advise you that we believe that the bill, in its present form, does not go far enough to address the serious harm that is being done by the NextGen flight paths that adversely affect our 13-square mile community. We request the following amendments to the bill for the reasons discussed below.

(1) Date

The scope of the bill is limited to operations implemented after February 14, 2012. However, the RNAV for Runway 4R at Logan International Airport, which has been the primary source of airplane noise and pollution in Milton, was implemented in December, 2011. The unique intensity of this flight path is highlighted in the attached summary of noise and flight statistics for Runways 4R and 27 in March 2016. Additionally, Massport reports that the first RNAV at Logan International Airport, Runway 9, was implemented in February 2010.

Therefore, in order to ensure that all of the RNAVs to and from Logan Airport that affect Massachusetts residents are included within the scope of the legislation, we request that Section 5(a), line 4, of the bill be amended to change the date from "February 14, 2012" to "January 1, 2010".

(2) Scope

The bill would require the FAA to “take actions to limit negative impacts on the human environment in the vicinity of an affected airport”. However, neither the actions to be taken nor the negative impacts are defined. Presumably, “negative impacts” would include impacts from any actions or activities that would limit or interfere with citizens’ abilities to enjoy their homes, time with their loved ones, or open spaces, which is what has happened in Milton as a result of the FAA’s implementation of RNAVs for Logan runways 4R, 27, and 33L.

Additionally, Section 2(2) (page 2, line 6) of the bill would give the FAA the ability to keep flight paths in place where they already exist. However, Section 5 of the bill contemplates reconsideration of flight paths. Presumably, Section 2(2) would allow the FAA to continue the same policies and procedures that are causing so much noise, pollution, and hardship in Milton and other communities because these flight paths were already in place.

Therefore, we request that the bill provide definitions of both “negative impacts” and the actions to be taken by the FAA to limit them. Likewise, we request that the FAA’s ability under Section 2(2) to keep flight paths in place not be permitted to trump the lookback provided in Section 5(a), which is desperately needed for communities like the Town of Milton that are overburdened by air traffic as a result of the NextGen program and the implementation of the RNAV navigation system.

(3) Enforcement

Section 3 of the bill calls for the creation of regional ombudsmen to act as liaisons between communities and the FAA and advocate for citizens affected by airplane noise. However, the legislation does not identify to whom the ombudsmen would report or address whether they would have enforcement abilities. Given the lack of success or response that the Town of Milton has had in working with the FAA’s national ombudsman, it is questionable whether a regional ombudsman would provide citizens any greater support.

Section 3(b)(2) (page 2, line 23) of the bill would require the ombudsman to “monitor” the impact of NextGen on communities, yet it does not provide examples of what type of monitoring is intended or what the ombudsmen would do. Presumably, the intent is to ensure that the NextGen implementation is not inflicting hardship on the communities under the flight paths. While the ombudsmen can make recommendations to the Administrator of the FAA, the bill does not compel the Administrator to respond to such recommendations, let alone implement them.

Therefore, we request that (a) the reporting lines of the regional ombudsman be clearly delineated, (b) examples of actions that the ombudsmen can or shall take be included in the bill, and (c) the FAA Administrator be required to at least respond to the ombudsmen’s recommendations and not be permitted to ignore such recommendations.

(4) Community Engagement

Section 4 of the bill contains elements that appear to be either redundant or imprecise. For example, the protections for “extraordinary circumstances” listed in Section 4(a)(1) (page 3, line 23) already exist under NEPA, however, we believe they are not being enforced. How would enforcement be different under the proposed bill than under NEPA?

Likewise, Section 4(a)(2) (page 4, line 2) of the bill states that a community needs to show there will be a “significant adverse impact on the human environment” from a proposed new flight path or change to an existing flight path, but does not lay out any criteria for assessing what “significant” or “adverse” mean in this context. For example, would a community need to hire consultants, lawyers, and other experts to prove significant adverse impact, or would a more holistic definition suffice? We submit that the attached statistics showing the continuous hours of airplane traffic and the citizen complaints that this traffic engenders are sufficient to show a “significant adverse impact”.

Additionally, the notifications requirement set forth in Section 4(b) (page 4, line 4) of the bill is already part of the procedure for implementing new flight paths such as the potential Logan Airport Runway 4L RNAVs. However, the notification method is inadequate because notifications are sometimes not made in an overt statement to the affected communities. How would the notification process be different under the bill? To whom can citizens turn if the FAA fails to notify affected communities properly?

We request that the criteria for identifying “significant adverse impact” be more clearly defined in the bill. We also request that the bill be amended to (a) ensure that the FAA gives communities adequate notice of any determination that a new or modified flight path is covered by a Categorical Exclusion (CATEX) and (b) provide remedies for a lack of adequate notification.

(5) Assessment

The bill relies on the operator of the airport to help with rectifying any significant adverse impact. To date, Milton has received no such support from Massport, the operator of Logan Airport. We are concerned that this scenario may play out for many other communities because airports are thought to be a hub of revenue creation. This dynamic would make it easy for airports to justify shifting the cost of NextGen, and any activities that may follow it, to communities because they could argue these costs would contribute to regional growth and development.

Additionally, we are concerned about how impacts will be assessed. For example, the current DNL measurement is woefully outdated, and creates artificially positive outcomes because the results are: (a) estimated rather than validated with field testing and (b) the results are averaged, thus smoothing out the data over time given the variability of

weather conditions, especially in regions like New England. Instead, we believe the bill should include a variety of metrics, including PNL Time above metrics (metrics given as the time above a defined noise exposure, daily DNL, or daily CNEL) to provide a more accurate indication of community impact.

For the foregoing reasons, we request that there be remedies afforded to communities to compel airport operators to take action in mitigating airplane noise. Additionally, we request that a broader set of noise measurements (or perhaps a combination thereof) be included in the bill.

Thank you for considering our concerns and recommendations for amendments to the FAA Community Accountability Act of 2016.

Sincerely,



Kathleen M. Conlon, Chair



David T. Burnes, Secretary



J. Thomas Hurley, Member

cc: Congressman Stephen F. Lynch
Congressman Michael E. Capuano
State Senator Brian A. Joyce
State Representative Walter F. Timilty
State Representative Daniel R. Cullinane
Cindy L. Christiansen, Ph.D., Massport and Logan CAC Representative
Milton Airplane Noise Advisory Committee
Milton Board of Health
John P. Flynn, Esq., Milton Town Counsel
Karis L. North, Esq.

Milton Noise Statistics – March 2016

Milton had far more than our fair share of airplanes during March.

- We had planes over our homes for almost half of the hours in the month.
- The arrivals to runway 4R, Milton's biggest problem, occurred for over 9 hours per day, on average, for every day of the month.

Weekend days were even worse.

- We had planes over our homes for over 15 hours of each weekend day, on average
- Half of our weekend hours in March saw low flying, polluting jet arrivals over our homes

Feeling tired? Not getting enough sleep?

- Milton had 5:15 am loud and low arrivals or departures over our town for 23 (74%) of the mornings in March.
- For half of our nights in March, the FAA gave Milton residents less than 8 hours of quiet time so that we could sleep.

There are more detailed statistics at the end of this document. Massport reviewed our data and found no mistakes.

Many are working with us and with each other to reduce the negative health effects and reduced quality of life attributable to FAA's and Massport's procedures and overuse of flightpaths over our town. They include the BOS Fair Skies Coalition, the town's Airplane Noise Advisory Committee, Milton's representative to the Logan and Massport Community Advisory Committee, the Board of Selectmen, our state and federal elected officials, local news sources, as well as many individuals from Milton and surrounding communities.

Hours of Flights over Milton – March 2016

March	Tue	Wed	Thurs	Fri	Sat	Sun	Mon	Tue	Wed	Thurs	Fri	Sat	Sun	Mon	Tue	Wed	Thurs	Fri	Sat	Sun	Mon	Tue	Wed	Thurs	Fri	Sat	Sun	Mon	Tue	Wed	Thurs	Fri	Sat	Sun	Mon	Tue	Wed	Thurs	Fri	Sat	Sun				
hour starting at:	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31														
12 midnight					R27								R27	R27	R27	R27	R27																												
1am					R27								R27	R27	R27	R27	R27																												
2am					R27								R27	R27	R27	R27	R27																												
3am					R27								R27	R27	R27	R27	R27																												
4am					R27								R27	R27	R27	R27	R27																												
5am					R27								R27	R27	R27	R27	R27																												
6am	R27	R27	R27	R27	R27	R27						R27	R27	R27	R27	R27	R27																												
7am	R27	R27	R27	R27	R27	R27						R27	R27	R27	R27	R27	R27																												
8am	R27	R27	R27	R27	R27	R27						R27	R27	R27	R27	R27	R27																												
9am	R27	R27	R27	R27	R27	R27						R27	R27	R27	R27	R27	R27																												
10am	R27	R27	R27	R27	R27	R27						R27	R27	R27	R27	R27	R27																												
11am	R27	R27	R27	R27	R27	R27						R27	R27	R27	R27	R27	R27																												
12 noon	R27	R27	R27	R27	R27	R27						R27	R27	R27	R27	R27	R27																												
1pm	R27	R27	R27	R27	R27	R27						R27	R27	R27	R27	R27	R27																												
2pm	R27	R27	R27	R27	R27	R27						R27	R27	R27	R27	R27	R27																												
3pm	R27	R27	R27	R27	R27	R27						R27	R27	R27	R27	R27	R27																												
4pm	R27	R27	R27	R27	R27	R27						R27	R27	R27	R27	R27	R27																												
5pm	R27	R27	R27	R27	R27	R27						R27	R27	R27	R27	R27	R27																												
6pm	R27	R27	R27	R27	R27	R27						R27	R27	R27	R27	R27	R27																												
7pm	R27	R27	R27	R27	R27	R27						R27	R27	R27	R27	R27	R27																												
8pm	R27	R27	R27	R27	R27	R27						R27	R27	R27	R27	R27	R27																												
9pm	R27	R27	R27	R27	R27	R27						R27	R27	R27	R27	R27	R27																												
10pm	R27	R27	R27	R27	R27	R27						R27	R27	R27	R27	R27	R27																												
11pm	R27	R27	R27	R27	R27	R27						R27	R27	R27	R27	R27	R27																												
total hours	15	2	8	19	21	14	0	15	0	0	16	0	19	24	24	24	3	0	13	19	19	10	8	20	8	19	18	12	0	4	0														
R4R1 arrivals	5	0	4	19	21	7	0	15	0	0	12	9	12	24	24	24	3	0	3	19	10	0	8	20	8	15	18	13	0	4	0														
R27 departures	10	2	4	0	0	7	0	0	0	0	4	0	7	0	0	0	0	0	10	0	9	10	0	6	0	4	0	4	0	4	0														
weekend hours					11	14						4	19							13	19																								
4RL arrivals					21	7						0	12																																
R27 arrivals												0	7							3	19																								
R27 departures					0	7						0	7							10	0																								

Of the 30 transitions from night to morning, 15 (50%) had an overnight quiet period of less than 8 hours

The 11 red circles indicate the dates that those under the R4 arrivals had an overnight quiet period less than 8 hours

The 2 blue circles indicate the dates that those under the R27 departures had an overnight quiet period of less than 8 hours

The 1 green circle indicates the date that those under the R4 arrivals and R27 departures had an overnight quiet period of less than 8 hours

Data were collected and analyzed by CL Christensen and G Brown of Milton MA. Massport reviewed and reported no disagreement with the numbers.

Over the 743 hours in the 31 days of March (1 hour Daylight Savings) Milton had:

- **R4 arrivals or R27 departures for 49.5% of the hours**
 - R4 (Runways 4R and 4L) arrivals for 38.2% of the hours
 - R27 departures for 11.3% of the hours

Of the 31 days in March we have had:

- R4 arrivals or R27 departures for 26 of the 31 days (84% of the days)
 - For the 26 days that R4 arrivals or R27 departures occurred, Milton had, on average, these 14.2 hours of planes per day
 - R4 arrivals for 21 of the 31 days (68% of the days)
 - For the 21 days that we had arrivals to the R4's the arrivals were, on average, 13.5 hours per day
 - R27 arrivals for 13 of the 31 days (42% of the days)
 - For the 13 days that we had departures from the 27 the departures averaged 6.5 hours per day

Winds were NE or E (0-120 degrees) for 195 hours (26%) in March when R4 is used for arrivals for safety reasons (compare to 38.2% of R4 usage)

- R4 was used for 58% of the 38 hours when winds were SE (120-160 degrees)
- R4 was used for 39% of the 181 hours when winds were NW (270-360 degrees)
- R4 was used for 43% of the 35 hours when winds were calm and when any configuration can be used
- **The overuse of the R4 runways in March was mostly attributed to use during NW, SE, and calm winds**
- If Fair Use of the R4 were defined as use in all NE and E winds and 25% of calm winds, **4R was overused for 110 hours in March**
- If Fair Use of the R4 were defined as use in all NE and E winds and 25% of calm winds, **4R was overused, on average, 3 and 1/2 hours every one of the 31 days**

Winds were W or NW (270-360 degrees) for 261 hours (29%) in March when R27 is used for departures for safety (compare to 11.3% of R27 usage)

On the **8 weekend days in March** we had

- R4 arrivals or R27 departures for **64.4% of the weekend hours**
 - We had **R4 arrivals for 50% of the weekend hours** in March
 - We had **R27 departures for 15% of the weekend hours** in March

Milton had R4 arrivals or R27 departures **starting at around 5:15 am or earlier for 23 of the 31 (74%) mornings, including 7 of the 8 weekend days in March**

- Milton had R4 arrivals starting at 5:15 am or earlier for 13 of the 31 days (42%)
- Milton had R27 departures starting at 5:15 am or earlier for 10 of the 31 days (32%)

Of the 30 transitions from night to morning, **15 (50%) had an overnight quiet period of less than 8 hours**

- The 11 red circles indicate the dates that those under the R4 arrivals had an overnight quiet period less than 8 hours
- The 3 blue circles indicate the dates that those under the R27 departures had an overnight quiet period of less than 8 hours
- The 1 green circle indicates the date that those under the R4 arrivals and R27 departures had an overnight quiet period of less than 8 hours

Of the 243 nocturnal hours (10pm-6am) in March,

- R4 was used for 61 hours (25%)
- R27 was used for 13 hours (5%)
- **In total Milton had 74 hours (30.5%) of nocturnal hours**

Introduced in Senate (04/07/2016)

FAA Community Accountability Act of 2016

This bill requires the Federal Aviation Administration (FAA), in considering flight paths or procedures as part of the implementation of the Next Generation Air Transportation System, to limit negative impacts on the human environment near airports. The FAA may give preference to overlays of existing flight paths or procedures to ensure compatibility with land use.

The FAA shall appoint an FAA Community Ombudsman for each of its regions to:

- act as a liaison with communities regarding problems related to the impact of commercial aviation on the human environment;
- monitor the impact of System implementation on communities near affected airports;
- make recommendations to address community concerns and improve the use of community comments in FAA decisionmaking; and
- report periodically on the impact of commercial aviation on the human environment and on FAA responsiveness to community concerns.

The FAA, in implementing the System, may not treat the establishment or revision of a flight path or procedure as covered by a categorical exclusion if an Ombudsman or airport operator submits notification that: (1) extraordinary circumstances exist, or (2) the establishment or revision will have a significant adverse impact on the human environment near such airport. The FAA, before treating such establishment or revision as covered by a categorical exclusion, shall provide notice and an opportunity for comment to persons affected.

The bill requires the FAA to: (1) reconsider a flight path or procedure established or revised after February 14, 2012, as part of the implementation of the System if an Ombudsman or airport operator submits written notification that the establishment or revision is resulting in a significant adverse impact on the human environment near the airport, (2) provide notice of such reconsideration and an opportunity for public comment, (3) assess the impacts on the human environment, and (4) report on comments received, assessment results, and changes to be made.