Case Summary

City of Los Angeles and Culver City v. Stephen Dickson, et al. (July 8, 2021)

On May 24, 2018, the FAA published amendments to the HUULL TWO, IRNMAN TWO, and RYDRR TWO RNAV STARs serving LAX. These procedures are referred to as the "North Downwind" arrival procedures. All three procedures were originally published in 2016 as part of the Southern California (SoCal) Metroplex Project (HUULL ONE, IRNMAN ONE, and RYDRR ONE RNAV STARs).

After an attempt at mediation, the City of Los Angeles filed a petition for review of the FAA's action with the 9th Circuit Court of Appeals in June 2019, and the City of Culver City joined the suit two months later. Both Cities contended that the FAA failed to conduct proper environmental review for the amendments to the three arrival procedures prior to their adoption as required under the National Environmental Policy Act (NEPA). The Cities also argued that the FAA failed to engage in required consultation under the National Historic Preservation Act (NHPA) and Section 4(f) of the Department of Transportation Act of 1966 (DOT Act). Pointing to the administrative record, the Cities claimed there was no record of a NEPA determination or any attempt by the FAA to consider the impacts of the amendments on historic resources, parks, or recreational areas. The FAA pointed to two documents in the Administrative Record as the basis for its decision – a memo confirming the necessary environmental review had been completed and an Initial Environmental Review that documented application of a categorical exclusion to further NEPA review. The Court found both documents to be postdated from the adoption of the amended procedures and thus could not constitute a NEPA review. The Cities also argued, and the Court agreed, that the FAA's application of a categorical exclusion was arbitrary and capricious due to existence of extraordinary circumstances associated with public controversy over the manner in which aircraft fly the arrival procedures. In their brief, the City of Los Angeles contends that aircraft have consistently failed to adhere to the procedures, flying below minimum altitudes where required, resulting in noise impacts to noise sensitive uses below. The Court also found that the FAA failed to engage in consultation with the Cities as required under the NHPA, Section 4(f) of the DOT Act, and FAA's own regulations.

Despite the Court's determinations regarding the categorical exclusion and consultation under NHPA and Section 4(f) of the DOT Act, the Court accepted the FAA's argument that vacating the amended procedures would be severely disruptive and has allowed the amended procedures to remain in place while the FAA completes proper NEPA review and consultation under the NHPA and Section 4(f) of the DOT Act.

The Cities also challenged the FAA's decision to prohibit comments on the potential environmental effects of proposed flight procedures through the Instrument Flight Procedures (IFP) Gateway website maintained by the FAA. The City claimed that no notice was provided that the FAA would no longer accept comments through the IFP Gateway site, and the restriction was arbitrary and violated both the Administrative Procedures Act (APA), NEPA, and due process. The Court, however, dismissed this claim for lack of jurisdiction.