

May 8, 2018

David Vela, Superintendent
Grand Teton National Park
P.O. Box 170
Moose, WY 83012

Dear Superintendent Vela:

This letter is to seek your concurrence regarding the treatment of revenues to be received by the Jackson Hole Airport Board from its planned acquisition and operation of both a new fuel facility and the fixed base operation at the Jackson Hole Airport. These facilities are now and have historically been owned or operated by a private business entity, and thus the revenue derived from sales of fuel and services to aircraft owners is separate and distinct from that received by the Board in its capacity as operator of the Airport.

Basis of Existing Payment Obligation. The Fourth Amendment to the 1983 Agreement under which the Airport operates in Grand Teton National Park was entered into in 2013. In that Amendment the parties agreed that the Airport caused the Park to incur expenses which exceeded amounts it was then receiving under the 1982 Agreement. They also agreed that the new fee formula set forth in the Amendment was necessary for the Park to recoup but not materially exceed those expenses.

On that basis the Fourth Amendment increased the fee payable to the Park to 3% on the first \$4 million in Airport operating receipts, and 4% on Airport operating receipts in excess of \$4 million. Operating Receipts are defined as follows:

“Operating Receipts” as used in this subparagraph shall mean those funds received by the Board as a result of operations carried on at the Airport, but shall not include federal, state or local grants, loan receipts, revolving funds, interest income, receipts from the Town of Jackson or Teton County, Wyoming, receipts from any contract to provide security screening or law enforcement services at the Airport, or other receipts described in the annexed **Attachment A** as not being subject to this fee.

Attachment A to the 1983 Agreement, lists of types of revenue that are both included and excluded from Operating Receipts. Expressly included are, (a) “License fees received from” any fixed base operator and rental car company, (b) “rental received from” food establishments, (c) “landing fees” received from landing aircraft and (d) “rental for the use of buildings or improvements” on the Airport. These examples of included receipts are those the Board receives in its inherent capacity

as proprietor and operator of the Airport itself – those it receives “as a result of operations carried on at the Airport.”

Expressly excluded from Operating Receipts are (a) “receipts from any contract to provide security screening” at the Airport, (b) reimbursements received by the Board for “providing security or maintenance services” and (c) receipts from the use of the Airport copy machine. These examples of excluded receipts are those the Board receives when it provides services to others, much like a business would provide such services.

Receipts from New Business Acquisition. The Board plans to acquire and operate two related business enterprises which currently exist on the Airport:

1. **Fixed Base Operation.** The Board was presented with the options of either allowing two FBOs to operate in the limited Development Subzone at the Airport, or purchase the assets of Jackson Hole Aviation LLC, and itself become the sole FBO on the Airport. The Board chose the latter option because, among other things it would avoid ramp conflicts, prevent the construction of duplicate facilities, aid in Airport planning and give the Board more direct control of its environmental initiatives. To finance this acquisition, the Board will need to issue revenue bonds, repayment of which will be through FBO revenues. The Board anticipates the FBO will function as a separate enterprise or operating division, with the “FBO Division” continuing to pay the Airport Division (a) facility rent on the hangars, (b) fuel flowage fees payable as additional rent (12¢ for GA and 5¢ for air carriers), and (c) a fee equal to 10% of gross revenues from ramp operations. What will eventually be the net profits from the FBO Division will also be transferred to the Airport Division as operating receipts. In this way, the “Airport Division” will receive no less (and in a few years quite a bit more) in operating receipts than it received from the FBO prior to the acquisition.
2. **New Fuel Facility.** The current fuel facilities at the Airport are underground, aging and too small to meet demand with a margin of safety. These existing facilities are owned by the Board and operated by the FBO, which is now a private business. To meet demand with a margin of safety, avoid the possible construction of duplicate facilities, and improve environmental protections, the Board is also constructing a new state-of-the-art above-ground fuel facility, which it will own and exclusively operate. To finance this construction, the Board will issue a revenue bond, repayment for which will be through new per-gallon fees. These will be (a) a new 20¢ per gallon fee which will be absorbed by the “FBO Division” and will be included in the price of fuel delivered (we call it a “Fuel Facility Fee” or FFF), and a 5¢ per gallon fee which will be directly passed on to the fuel end user (we call this the “Fuel Facility Use Fee” or FFUF). These fees are only adequate for the Board to service the bonds and pay operating expenses of the New Fuel Facility.

Proposal for Treatment of New Revenues. The Board does not believe the revenues received by the FBO Division from operating what has been a private business (FBO and fuel facility operation) will be funds received by the Board “as a result of operations carried on at the Airport” within the meaning of the Fourth Amendment. This view is supported by the following:

- A. Neither of these sources of revenue were anticipated when the Fourth Amendment was entered into. Such revenues will be received by a separate enterprise of the Board which will be continuing the operation of a private business. Revenue which remains in this enterprise and is not paid to the "Airport Division" is not received "as a result of operations carried on at the Airport," within the meaning of the Fourth Amendment.
- B. Because of the high costs of construction, acquisition, and operation, the gross receipts from the operation of the FBO and new fuel facility will be far in excess of the revenue which will actually be received by the "Airport Division."
- C. Payment of the 4% fee on this new and unanticipated revenue would result in payments to the Park are in excess of those contemplated by the Fourth Amendment was signed.
- D. The Board could create a separate public corporation to operate these enterprises. In this way, only the existing rental and fuel flowage payments, and net revenues (or profits) from these operations, would flow to the Airport and thus form the body of "operating receipts" on which the 4% fee is paid.

For the foregoing reasons, the Board proposes that upon its closing of the FBO purchase, and/or construction of the new fuel facility, all revenue which flows to the Board's "Airports Division" should be considered to be received "as a result of operations carried on at the Airport" and thus counted as "operating receipts" within the meaning of the Fourth Amendment. More specifically, the following which to be generated by the FBO and/or the new fuel facility should be considered operating receipts:

1. Fuel facility rental payments made by the FBO Division to the Airport Division at the rate now paid by the FBO to the Airport for existing fuel facilities;
2. Hangar rentals due from the FBO Division to the Airport Division;
3. Proceeds of the 12¢ and 5¢ per gallon rental fees which are paid from the FBO Division to the Airport Division;
4. Percentage rent for ramp income by the FBO Division; and
5. Any and all "profit" from operation of the enterprises. In other words, all revenues of the FBO Division which are net of operating costs, acquisition costs for fuel and other materials, capital improvements directly related to the FBO and new fuel facility, and debt service related to construction of the fuel facility and acquisition of the FBO.

The Board therefore respectfully requests the Park agree with the Board's interpretation of "operating revenues" with respect to the gross income of the FBO and fuel facility enterprises to be acquired.

Sincerely,

JACKSON HOLE AIRPORT BOARD

By: _____
Jim Elwood, Executive Director