

**JON RODGERS AVIATION CONSULTING
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July 8, 2014

DRAFT

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I received your undated reply to my Torrance complaint by e-mail on August 6, 2014. Please accept my thanks and the following comments.

You “verified with the City of Torrance that safety issues are considered in the enforcement of the city’s noise abatement regulations, as they have been for many years.” However, no government agency will voluntarily admit wrong doing, or admit safety is not a consideration. So of course Torrance will say that.

You further verified “that the pilot in command of an aircraft is directly responsible for, and is the final authority as to the operation of that aircraft.” However, you omitted a key provision of existing federal case law: Noise abatement procedures must be reasonable and pose no hazard to aviation safety.

Yet whenever noise abatement procedures exist, there is a hazard to aviation safety because they force the pilot in command to choose between safety and compliance and always risk making the wrong choice. Therefore, the only remedy that will insure aviation safety at all times and conform to DOT policy is to eliminate noise abatement procedures which will eliminate the burden of choice and its associated risk.

However, in spite of the safety benefits, I don’t believe the FAA or the NTSB will support such a solution because they have among other things, unfounded fears of political backlash. But that does not relieve the FAA of its responsibility to insure that airports conduct all of their affairs on reasonable terms and insure that pilots can operate within the full authority of Federal Aviation Regulations.

FAR Part 91.3(a) makes no exception that requires pilots to comply with noise abatement procedures. So, tampering in order to limit a pilot’s authority for any reason is not authorized. Compulsory compliance could also cause a pilot to violate additional regulations, in this case FAR Part 91.129(f). Further, I doubt if the FAA or the NTSB would exonerate a pilot in command of liability for an accident if it occurred for noise abatement reasons, even though your determination in this matter authorizes Torrance to force the pilot in command to comply with the Torrance noise abatement regulations.

Therefore, with all due respect, your determination is not persuasive because among other factors it reflects an unproven fear of political backlash mentioned earlier. It is also contradictory and detrimental to aviation safety and reasonableness. Even though Torrance insists they consider safety and the final authority of the pilot in command, you have nevertheless authorized Torrance to tamper with FAR Part 91.3(a) so they can eliminate the right of the pilot in command to choose (albeit a risky choice) between noise abatement and safety and force compliance with the Torrance noise abatement regulations-an even greater hazard to aviation safety.

Respectfully Submitted,

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