

Open DeKalb, Inc.

Background of PDK Weight Limit for Commissioner Rader

(referenced exhibits provided on request)

February 25, 2020

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In the current master plan process going on at PDK, both the Airport and the FAA are ignoring the weight limit on aircraft at PDK and doing so with full knowledge that they have not a shred of the requisite reliable environmental impact information. This conduct will require a rejection of the Master Plan by the DeKalb Board of Commissioners and is at best, very poor stewardship of the public trust. Open DeKalb has done enormous research on the weight limit and can provide as much information as one needs to verify its existence. The following discussion provides an overview.

In 1985, DeKalb County presented an updated airport Layout Plan (ALP) to the FAA which Plan recommended a 1000-foot extension of the then 5000-foot Runway and maintained the Runway's pavement strength as "66,000 pound gross dual gear load." See 1985 ALP at p. 18. "Runway 2R-20L has adequate length, width, and pavement strength to serve sixty percent of the Basic Transport fleet, which includes business jets, at sixty percent useful load." See 1985 ALP at 19. Like the 1975 ALP, the 1985 ALP was prepared for the County by Mayes, Sudderth & Etheredge, Inc. Also like the 1975 ALP, the 1985 ALP recommended

that PDK be “improved and expanded to serve a larger variety of aircraft and to provide greater capacity and operational levels for aircraft operations.” In the 1985 ALP, they add the assertion that “[t]he additional [1000’] length is required to handle 100% of the Basic Transport fleet of aircraft at 60% of useful load.” See 1985 ALP at p. 15.

After substantial public outcry over the proposed runway extension that the publicly-stated need for the runway extension changed from accommodating larger aircraft (1975-1982) *to additional safety for existing, smaller aircraft (1985-1986)*. Sometime between 1982 and 1985, the County and the FAA changed the name of the project from a full “runway extension” to creation of a “displaced threshold.” See for example, Handout at May 22, 1986 meeting. That displaced threshold term means that the additional 1000’ to be added to the runway was not to be used for touching down upon landing, only for slowing down after touching down at the touch down spot aircraft had used before the extension, and for providing more room for “run ups” to take off. See C.A.R.E. Now vs. FAA opinion from the 11<sup>th</sup> Circuit. That means that larger aircraft that require a full 6000’ runway to land should not benefit at all from the added 1000’. Once Lee Rimmel became PDK Director sometime in 1997-early 1998, he and then-CEO Chief of Staff Richard Stogner (who came to DeKalb from Hartsfield Airport) made a push to make PDK available to larger aircraft but the

resulting safety and environmental issue have never been addressed.

On April 9, 1985, the Dekalb Board of Commissioners voted to authorize the CEO to file applications for federal and state grants for the runway extension and to execute all appropriate documents to qualify for and accept the grant offers. See Business Agenda/Minutes of meeting of April 9, 1985. The runway extension proposal was met with substantial citizen opposition by many, including Mickey Feltus, who feared that the longer runway would permit the use of PDK by larger classes of aircraft, negatively impacting the environment and quality of life for communities affected by Airport operations. The files at PDK contain numerous letters in opposition to the project and newspaper articles regarding the community's concerns on larger aircraft.

In furtherance of the application for federal Airport Improvement Program ("AIP") funds to build the extension, in 1986, the County prepared an environmental assessment ("EA") for submission to the FAA. See 11/1986 EA. An EA is required to ascertain whether a federal action such as approving and funding the proposed runway extension project would create "a reasonable possibility of a significant impact on the human environment" under the National Environmental Policy Act of 1969, 42 USCS sec. 4321, et. seq. ("NEPA"). Pursuant to NEPA, if such impact is not demonstrated, the FAA can issue a finding of no significant impact ("FONSI") and approve the project. If such impact is

demonstrated, the FAA is required to have the County conduct a much broader, time consuming and expensive environmental impact study, known as an Environmental Impact Statement, or “EIS,” before it can approve a project. So, the goal of any EA is to obtain a FONSI and avoid an EIS. The County and the FAA worked closely before, during and after the EA to be in a position for the FAA to issue a FONSI and permit the runway extension construction to begin.

By contract dated April 30, 1986, the County retained Howard, Needles, Tammen & Bergendoff, a Missouri partnership with offices in Fulton County (“HNT&B”) to prepare the EA. See County contract no. 86-3844. A principal in HNT&B was the then-recently-former PDK noise abatement officer. Another firm seeking the contract to do the EA criticized another one of the bidders by stating that “[he] would probably be objective, but that might not be so good either.” See November 18, 1985 letter to Manget from Ralph Burke Associates. Not surprisingly, as discussed below, when issued in final form in November 1986, the EA concluded that the runway extension/displaced threshold would not have a significant impact on the human environment.

In June 1986, HNT&B’s project manager, Andrew Bell, prepared a summary of two ‘kick off’ meetings that took place on May 8, 1986 for Airport Director Doc Manget in which Bell states that the pavement strength if used as a mitigating factor “would become a continuing obligation of the Airport and FAA

to uphold.” See June 11, 1986 Bell memo to Manget at page 4. In relevant part the memo states that

a meeting was also held with the FAA Airports District Offices to discuss the EA approach and other related issues.

...

- FAA emphasized the pavement strength limitations on Runway 2R-20L which would prevent large aircraft such as 727's and DC-9's from using the runway.
- The long-range plan (Airport Layout Plan) for PDK does not call for any further strengthening of Runway 2R-20L. This should be pointed out if anyone suggests that the proposed project is the first step in an overall plan to provide an air carrier type runway at PDK.
- **Existing pavement strength of Runway 2R-20L could be considered a mitigating measure in the EA. This would then become a continuing obligation of the Airport and FAA to uphold.**

June 11, 1986 Bell memo to Manget (emphasis added).

As it turned out, pavement strength played a major role as a mitigating factor in the EA and then in the FONSI and in the Eleventh Circuit's decision to uphold the FONSI and not require an EIS. More than ten years later, Lee Rimmel obtains a “study” from his usual consultants, the LPA Group, that concludes that the pavement strength is in fact greater than 66,000# and uses that “study”, as discussed below, to support his big push for larger aircraft at PDK. That conduct is being replicated by the current Airport and the FAA use of the grossly incomplete and unreliable KB “study” (September 29018; presented to the AAB March 11,

2019) to support using a large business jet, the Gulfstream 550 with an MTOW well in excess of 75,000 lbs. as the target aircraft in the current Master Plan process at PDK.

As part of the EA preparation procedure required by NEPA and the FAA, the County held public hearings in August –September 1986 attended by 2000 citizens, according to the 11<sup>th</sup> Circuit C.A.R.E. Now opinion, discussed below. Also according to that opinion, fully 3500 citizen comments were submitted, either in writing or orally, objecting to the runway extension for fear that it would permit the use of PDK by larger aircraft. See opinion. PDK's files for this time period are replete with significant criticisms of the EA's methodology and conclusions by community members with whom Mickey Feltus was working, including several particularly meaningful commentaries submitted to the County and the FAA by then Emory Professor George Butler (now an attorney in private practice in the Atlanta area). See examples in ODI files.

In response to the public outcry against the runway extension, the County made numerous representations and assurances to the public, representing it as simply creating more room for error by aircraft **already using PDK, i.e., less than 66,000 #**, thus improving safety for those aircraft and nothing more. See examples in ODI file. The public statements by the County, the FAA and HNT&B are replete with assurances that the project would not result in large aircraft using

PDK because the weight limitation of 66,000 lbs. would remain in place and the runway's and related taxiways' pavement strength was limited to that weight and would not be increased. See samples of representations to the public in ODI files.

An August 18, 1986 press release by the County regarding notice of the pending public hearing on the project stated “[t]he pavement strength will be consistent with the existing pavement on the runway and taxiway system . . . The proposed project is consistent with the 1985 DeKalb Peachtree Airport Layout Plan.” See Exhibit 24 in ODI files. Like the 1975 ALP, the 1985 ALP showed a weight bearing capacity of 66,000 lbs. dual gear.

An information sheet mailed to BOC members on 8-28-86 states, “[t]he proposed project will not increase the capacity of the airport nor accommodate aircraft larger than those using the airport today.” See Exhibit in ODI files. As discussed below, the EA stated that the Gulfstream II/III at 63,500 lbs. MTOW were the largest aircraft then using the Airport (in 1986). A handout at a joint meeting of the Airport Authority and the Advisory Committee dated May 22, 1986 states, “[t]his proposed runway improvement project will not change the runway's ability to accommodate larger and heavier aircraft as the runway weight bearing capacity will remain the same.” See Exhibit 15 in ODI files. A September 3, 1986 memorandum to BOC Office Administrator, Billie Izard, from Airport Director Manget states that, “[t]he runway in question will not be strengthened and

will continue to serve the same type of aircraft that have been using the runway since it was constructed in 1968. . . . We do not wish to allow larger or heavier aircraft to use the airport than those which are now using it.” See Exhibit 16 in ODI files. The names of all County personnel involved in the runway extension project in 1986 organization are included in Exhibit 18 in ODI files, a table prepared by HNT&B and dated March 14, 1986.

Internal DeKalb County memoranda during the 1986-1987 period demonstrate that County staff then viewed those opposed to the runway extension as “anti-airport” and it was a ‘them against us’ mentality, contrary to multiple public statements by County officials and their consultants. See Exhibit 17 in ODI files for an example of County internal reference to the “anti-airport” group when referring to those opposing the runway extension.

#### The Weight Limit and the Agreement Between the FAA and the County

By letter dated October 7, 1986, the FAA’s Charles Prouty writes to PDK Director Manget explaining that the FAA has “conducted our initial review of the [EA] for the Proposed Runway Improvement Project at [PDK]. The following issues need to be addressed before a federal finding can be made:

- (1) Noise mitigation measures discussed throughout the report are described as measures which ‘could’ be taken or ‘appear feasible’. We need to know specifically what the sponsor [PDK] is committed to do to mitigate noise impacts. **We will expect these measures to include retaining the proposed displaced threshold and limiting aircraft weights in conformance with pavement design strength. . . . The removal of a**



**displaced threshold is ordinarily excluded from the requirement for a formal environmental assessment. However, because of the history of noise complaints and controversy attributable to air traffic at [PDK], an environmental assessment would be required in connection with any proposal to remove the displaced threshold.”**

Exhibit 19, October 7, 1986 letter to Manget from Prouty, at pp. 1-2 (emphasis added.)

In other words, the County had to commit to the weight limitation in the EA and in future; if it wanted to use the extra runway length for all purposes as opposed to as a displaced threshold and permit larger aircraft, it would have to do an EA

Having reviewed the runway extension EA, by letter dated November 3, 1986 to Charles Prouty, FAA, the US Environmental Protection Agency weighed in and said that “some restrictions on increased loading and heavier jet operations which would result in increased community noise exposure and would negate the project’s safety improvements, may be warranted.” See November 3, 1986 letter from EPA to FAA’s Prouty. In other words, the FAA needs to ensure that no larger aircraft are permitted in because then the purported safety purpose for “existing aircraft” is completely negated and all you have is equally unsafe larger aircraft and more noise and other pollutants.

The County’s response to the FAA’s October 7, 1986 letter reaffirms the mitigation measure/weight limitation in the EA. See 11-04-86 Manget letter to Prouty. Writing for the County and copying then CEO Manuel Maloof, Director

Manget states that

You identified several issues in your October 7, 1986 letter which needed to be addressed before a federal finding could be made on the [EA]. We have responded to all these issues in the final [EA] report (November 1986). However, we would like to elaborate further on the proposed noise mitigation measures that would be implemented as part of this project and reiterate the County's firm commitment to mitigate noise impacts resulting from the operation of [PDK].

...  
[I]t is recognized that many details still need to be worked out to ensure the successful implementation of the proposed noise mitigation measures. These details will be an integral part of the runway improvement design phase and will be coordinated with all appropriate parties. At this time, we would expect the following actions to be taken to successfully carry out the recommended mitigation measures:

- 1) Establish procedures, memorandums of understanding, etc., with the [FAA's air traffic control tower] in support of the mitigation measures.

- ...
- 8) Publication in appropriate aviation manuals of limiting aircraft weights in conformance with existing pavement design strengths which are compatible with the current fleet of aircraft using [PDK].

The County is committed to implementing the proposed noise mitigation measures as part of this runway improvement project. . . . We trust that this letter with attachments and the final EA report have responded to your concerns and will enable the FAA to make the appropriate federal finding on this important project.

November 4, 1986 letter to Prouty from Manget.

So, the County admits that the EA does what was requested in the October 7, 1986 letter, **including retaining the displaced threshold and the weight limit**, and explains how it will carry out those measures. This is significant because the

County cannot successfully claim that the weight limitation is not in the agreement

between it and the FAA to build the displaced threshold/runway extension.

Under cover letter of November 12, 1986, County consultants HNT&B sent the FAA “verbatim transcripts and written comments received during the Public Hearing process (August 4 – September 5, 1986).” See Exhibit 22 in ODI files. Those transcripts and comments include many concerns that the runway extension/displaced threshold project will lead to larger aircraft using PDK. This is significant because one future public argument for breach of contract or agreement may be that the resulting FONSI and grant agreement include the mitigation measure that is the weight limitation to benefit the public.

The EA was finally issued in November 1986. See Exhibit 23 in ODI files. Some specific statements made in the EA are discussed below, but suffice it to say that its conclusion that the project would not create a reasonable possibility of a significant impact on the human environment pursuant to NEPA, paving the way for the FONSI, was based on limiting aircraft using PDK to under 66,000 lbs. and a preferential runway use program. The basic argument for the runway extension in the EA was that on hot days, aircraft **already using** PDK needed more runway length to safely takeoff and land **at their maximum takeoff weights**. The County did not want them having to carry less fuel to be lighter or be restricted as to when they could take off due to weather conditions and safety considerations on a 5000’ runway.

The Introduction section in the EA, explains that because the project is not a ‘real’ runway extension but merely a displaced threshold, there had been some discussion as to whether an EA was even required. The EA states that the project “is consistent with the 1985 DeKalb Peachtree Airport Layout Plan,” that shows a 66,000 lb. weight limitation on aircraft. Exhibit EA pp. I-4 to I-5. The EA explains that “Runway 20L at [PDK] needs to be improved to enhance its operational safety for the high performance aircraft which **currently** use it. . . . The largest aircraft capable of operating on Runway 2R-20L is the Gulfstream II/III corporate jet. The runway’s weight bearing capacity is sufficient for the operation of this aircraft at gross weight 65,000 lbs.” Id. (emphasis added). “The corporate jets that use PDK range from a 12,000 pound Cessna Citation to a 65,000 pound Gulfstream III.” See Exhibit 23, EA page I-3. “Corporate jet aircraft capable of operating on a runway with a pavement strength of 65,000 lbs. dual wheel loading were the only aircraft considered.” See Aircraft Activity Analysis enclosed under cover letter dated June 24, 1986 from HNT&B to Doc Manget, at page 1.

The EA includes various tables depicting the data showing how much runway is needed for these existing users of the Airport on hot and cool days at various weights to make the case for a longer runway, and it includes numerous assurances that the project will not result in larger aircraft being able to use PDK.

**“The project is not designed to increase the capacity of the airport nor to accommodate larger aircraft.** The Atlanta area has two airports – Hartsfield International and Fulton County-Brown Field which can, and do, handle larger aircraft.” EA at I-11. The EA describes the federal action requested as “environmental approval of the proposed runway development project as identified in the project description of this report” and FAA funding to construct the project and reimburse the County for the costs of the EA. EA at I-12.

**Critically, because the fleet mix, or cross section of aircraft studied in the EA, and later in the 1996 Noise Compatibility Update study, only included aircraft up to 66,000 lbs., no environmental study has ever been done at PDK on the impact of the larger aircraft using the airport today. Further, air and water pollution were never looked at even for smaller planes using the Runway, let alone the proposed 93,000# MTOW Gulfstream 550 being used by Director Evans and team as the target aircraft for the current Master Plan.**

#### Representations by the County to the Public – Making the Case for a FONSI With the Public

As discussed above, the community objected to the sufficiency of the EA for the additional 1000’ on many levels and pointed out to the County and the FAA numerous serious flaws in its methodology and conclusions. **Apparently, the**

County tried to short-circuit the public input. That is a constant complaint about the currently Evans Master Plan process. Although the FAA tried to include the “anti-airport” community headed up by then Emory Professor George Butler in meetings to discuss the EA, the County fought the effort, going so far as to refuse to pay for its consultants, HNT&B, to attend a meeting with the group and the FAA requested by the group and welcomed by the FAA. The County only relented when questioned by the FAA and essentially threatened with not getting the FONSI if it did not produce the consultants who prepared the EA at the meeting. See January 6, 1987 letter from FAA to DeKalb CEO Manuel Maloof.

The FAA was apparently listening to what Professor Butler and lawyers for the group (that included Mickey Feltus) had to say about deficiencies in the EA. By memorandum of February 13, 1987, regarding the status of the displaced threshold, Director Manget informs Maloof’s Executive Assistant that “[t]he [EA] was completed in December 1986, however, the FAA chose to withhold its final approval of the EA report until **additional information over and above the normal EA requirements** was furnished by the County Consultants) . . . . A meeting between the FAA, the County consultants and the anti-airport improvement group will be held at the FAA District office at 10:00 a.m. on February 27, 1987. . . . We expect the FAA to approve the EA by 12 March 1987.” February 13, 1987 memorandum (emphasis added). This point helps support the

argument that the weight limitation in the FONSI was required due to public pressure and the public are intended beneficiaries of the County's agreement to maintain the displaced threshold and the weight limit.

The FAA included many of Professor Butler's concerns on behalf of the group that included Feltus in a letter to the Director Manget dated May 6, 1987 questioning some of the data and findings in the EA. See letter from Prouty to Manget. The County was concerned about the extent to which the FAA was listening to Professor Butler, as expressed in a May 14, 1987 memorandum from CEO Maloof's Executive Assistant, Gretta Dewald, to Maloof, copied to the BOC and County Attorney. See Exhibit 28 in ODI files. In a lengthy response to the May 6, 1987 letter, the County tried to explain to the FAA why the EA's forecast of a *decline* in the percentage of aircraft using PDK that are jets is supportable. See June 16, 1987 letter from Manget to Prouty.

Perhaps one of the most telling documents with regard to an intent to evade NEPA and mislead the public about the intended use of the extended runway by larger aircraft is a one page recordation by someone at the County of a meeting held August 12, 1987 among the FAA, the County's airport design consultants, Mayes, Sudderth and Etheredge, (as opposed to the EA consultants, HNT&B). See Exhibit 31 in ODI files. It appears to be notes made by Doc Manget, but could be notes to Manget from someone else on his staff who attended the meeting. Susan

Gouinlock found the document in December 2002 in a file produced by PDK at PDK in response to a GORA request by Mike Principino. The meeting took place fully 9 months after the final EA came out and well after the time the County expected the FAA to have issued a FONSI. It seems to reveal an understanding that that if the extension were to be used as a runway instead of a displaced threshold for safety purposes, the FAA would have to require an EIS. The writer states that

They asked me if the County had any plans to buy all of the land north of the airport and if we planned to displace Carol Avenue in the future to use the 1000' as a runway. I told them I could not predict what the county would do ten years from now but that currently we were not in process of buying the land and that displacing Carol Avenue would be a very expensive proposition. I felt like they were searching for something else to hold up the displaced threshold project for and that any plans to use the 1000' in the future for a runway would be cause for them to hold up the current environmental study until evaluation of the impact on the area to the North was completed. I felt like telling them that we didn't have any current plans for the area north of the filed would save us some time and if we decided anything in the future we could deal with that then.

August 12, 1987 typed notes.

The document looks like an admission that someone lied to the FAA about the County's plans to use the additional 1000' as a runway for larger aircraft and Director Manget knew it.

Six days later, the FAA issued its FONSI in a Record of Decision dated August 18, 1987 (the "ROD"). See August 18, 1987 ROD, including the



FONSI. The opening paragraph of the ROD states “The current pavement strength of 66,000 pounds dual wheel loading will be maintained.” Exhibit ROD at p. 1. In addition, to that specific statement, the ROD could not be clearer about how important the weight limitation was in the federal government’s agreeing to permit construction of the additional 1000’ of runway and to pay for the work. It states that operations by the Jetstar II, Gulfstream II, and Gulfstream III “have provided the basis for justification and approval by the FAA of federal funding for the proposed 1,000-foot runway extension.” ROD at p. 1. None of those aircraft have a MTOW in excess of the 66,000 lbs. pavement strength. The ROD explains that “[t]he airport proprietor elected to retain the landing threshold for Runway 20L at its present location as a “displaced threshold” because of obstructions in the approach to that runway . . . and because of the enormous cost of land acquisition and relocation assistance for affected residents.” See ROD. Here, the FAA appears to be relying on the County’s assurances to it that buying the land to the north of the airport and removing the obstructions thereon, including displacing Carol Avenue, would be required to use the additional 1000’ as runway and were too expensive, as stated in the Manget August 1987 meeting notes, Exhibit 31 in ODI files.

The many citations to places in the FONSI in which the FAA relies on the weight limitation on aircraft at PDK to conclude that the runway extension

would not increase aircraft capacity or size need not all be referenced herein. One is on page 1 of the FONSI: “The runway extension is neither designed nor intended to accommodate operations by aircraft larger than the ones presently using the airport. The extension would enhance the safety and efficiency of operations by these aircraft. The runway would not be strengthened and aircraft would not be allowed to depart with a gross take off weight above the current limitation of 66,000 pounds. See ROD, FONSI page 1.

An August 14, 1987 FAA internal memorandum made part of the ROD, Exhibit 32, explicitly states that “the proposed project will not increase airport capacity.” See Exhibit 32 in ODI files.

Significantly, years later, when PDK is using the 1000’ as runway and permitting larger aircraft to use the Airport, the FAA internally acknowledged the critical nature of the weight limitation in the FAA’s decision to approve and fund the runway extension. In an internal email dated February 8, 1999, to the Manager, FAA Airports District Office that

In regards to the FONSI (dated 8/17/87) for the runway extension, the FONSI states ‘the runway extension is neither designed nor intended to accommodate operations by aircraft larger than the ones presently using the airport.’ (See FONSI, page 1, last paragraph)[sic] While the statement was not made to intentionally limit the weight of aircraft that can use the runway, **I believe it does just that in that our environmental finding was based on this premise of 66,000 gross takeoff weight limitation. Further, the noise analysis was based on aircraft weighing less than 66,000 lb. Heavier aircraft were not considered. Within the EA, references to the weight bearing**

**capacity of the runway can be found on page III-1, III-3, IV-14 & 16 and VI-7.**

FAA's Lee Kyker email to FAA's Scott Seritt, copied to Terry Washington and Rans Black, 2/8/99 (emphasis added).

Pursuant to FAA requirements for AIP projects, on August 31, 1987, the County via Director Manget certified that the plans and specifications for the runway extension project, as prepared by Mayes, Sudderth and Etheredge ("MSE") were "in accordance with the approved [EA]," and that "[a]ll work included in the [runway extension] plans and specifications is in accordance with the approved Airport Layout Plan." Exhibit 34 in ODI files. As discussed above, the plans and specs and 1985 ALP called for maintaining the 66,000 lbs. weight limitation. We will refer back to this important certification later in connection with the LPA Group's pavement "study" requested by Lee Remmel in 1998 that concludes that the runway strength is 105,000 lbs., not 66,000 lbs.

An August 26, 1987 Engineers Report from MSE states that the runway extension will consist of 9" sub ase and then 11" of concrete, and shows the design loading to be 66,000 lbs. dual gear. See Exhibit 35 in ODI files.

The County's Application for Federal Assistance and the FAA's Grant Offer are each dated September 10, 1987. See Part II of the Application. Section A, item 8, asks, "Will the assistance requested have an impact or effect on the

environment?” The County checked the “no” box and wrote in “FAA issued finding of no significant impact fir this project.” See Exhibit 36 in ODI files, Part IV, the “Program Narrative,” includes the statement that “[t]he increased length will provide a much needed and more safe operation for those aircraft presently operating off of this facility. See Exhibit 39 in ODI files, Part V, Assurances, paragraph C, “Sponsor Certification” states that

The sponsor hereby assures and certifies, with respect to this grant that: . . .

7. Consideration of Local Interest. It has given fair consideration to the interest of communities in or near which the project may be located. . . .

16. Conformity to Plans and Specifications. It will execute the project subject to plans, specifications, and schedules approved by the Secretary . . . [which upon approval] shall be incorporated into this grant agreement. Any modifications to the approved plans, specification, and schedules shall also be subject to approval by the Secretary and incorporation into the grant agreement. . . .

22. Economic Nondiscrimination. . . . i. The sponsor may prohibit or limit any given type, kind, or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public. . . .

29. Airport Layout Plan. . . . The sponsor will not make or permit any changes or alterations in the airport or in any of its facilities other than in conformity with the airport layout plan as so

approved by the Secretary if such changes or alterations might adversely affect the safety, utility, or efficiency of the airport.

Exhibit 36 in ODI files, FAA Form 5100-100 (1-86) pp. 2-14, executed by CEO Manuel Maloof 9/10/87.

On September 15, 1987, the BOC voted to authorize the CEO to execute all necessary documents to accept the federal grant in the amount of \$1,679,426.00 for the runway extension. See Exhibit 37 in ODI files.

By letter dated September 10, 1987, MSE sends revised plans and specs for the runway extension to the FAA, apparently revised based on an FAA communication dated September 4, 1987. See Exhibit 38. Significantly, under cover letter of October 1, 1987, MSE sent the FAA a revised Engineer's report for the runway project. The Engineer's Report is dated October 1, 1987 and stated under "Pavement Design" that

Our initial pavement design consisted of matching the existing concrete pavement in thickness and jointing, taking into account more current technology in the area of concrete joints. The 11' pavement had performed well, but is showing signs of distress in the form of intermediate cracking near the south end of the parallel taxiway. We were subsequently directed to redesign the pavement, limiting the strength to 66,000# dual gross loading. This resulted in a 9" slab thickness. Grooving will reduce this to 8-3/4". The details of the design are attached. The design is based upon a concrete flexural strength of 650 PSI as required in the specifications. . . . **The 3000 annual departure graph is used.** Applying this set of data to figure 3-15 of the FAA Advisory Circular on Airport Pavement Design and Evaluation [mandated by the grant agreement] furnishes the slab thickness of 9" for the design. The sub base thickness of 9" was

selected to match the sub base thickness of the original pavement.

See Exhibit 40 in ODI files, October 1, 1987 Engineer's Report at p. 2 (emphasis added).

The same information regarding pavement design is included in a streamlined, revised Engineer's report sent to the FAA under cover letter dated November 9, 1987 and per a handwritten, signed note on the document, approved by the FAA's Ralph Thompson on November 13, 1987. See Exhibit 40 in ODI files. The revised report is also dated October 1, 1987, and includes the same data on 9" concrete and 66,000# loading, but omits the narrative about being asked to change the design to 9" concrete from 11" concrete. ODI has a photocopy of the handwritten sheet showing all attendees at the project's pre-paving conference held on March 4, 1988. See Exhibit 41 in ODI files for some contemporaneous press accounts of the movement from EA to FONSI and the community challenge thereto.

#### C.A.R.E. NOW Litigation

In response to the FAA's FONSI and the grant agreement, a nonprofit civic organization, C.A.R.E. Now, Inc. (Citizens Against Runway Extension Now), consisting of homeowner associations and neighborhood groups, filed a judicial challenge in the United States Court of Appeals of the Eleventh Circuit to the FAA's issuing a FONSI instead of requiring a full EIS. *C.A.R.E. Now, Inc., Jerry Cram, Charles Feltus and Robert Lundsten v. Federal Aviation Administration*,

No. 87-8784, decision reported at 844 F.2d 1569 (1988). See Exhibit 42 in ODI files. Specifically, petitioners claimed that the EA and FONSI were flawed and that an EIS was required under NEPA.

A January 28, 1988 memorandum to CEO Maloof and the BOC from Sid Johnson, County Attorney stated that “it would appear the greater amount of construction which is completed during the pendency of the appeal [of the FONSI], the less likely the court is to stop the funding, according to Regional Counsel for the FAA.” See Exhibit 44 in ODI files. Thus, the County although not a defendant, was working with the FAA to get the runway extension built, regardless of the merits of the citizens’ suit over environmental impacts not being sufficiently studied.

In upholding the FONSI and not requiring the preparation of a full EIS, the Eleventh Circuit Court of Appeals relied heavily on the 66,000 pound weight limitation, explaining that “the proposal expressly maintains the current weight limitation of 66,000 pounds. The proposed runway extension is not designed to accommodate operations by aircraft larger than the ones currently using PDK. Therefore, petitioner’s fears that the runway extension will cause a significant impact because of the introduction of larger types of aircraft and heavier loads is unjustified. The primary consequence of the runway extension will be enhanced safety for the type of aircraft which currently use PDK. The

numbers of those types of aircraft will inevitably increase given the growth of the Atlanta area.” Opinion at 844 F. 2d at 1573. The Court later states that “[t]he terms of the proposed runway extension . . . forbid the introduction of new types of aircraft and heavier loads. . . . speculation as to the use of PDK by larger types of aircraft and heavier loads could never be a cumulative effect because the proposal itself forbids that effect.” 844 F.2d at 1574-1575.

#### Pavement Strength Cannot be Denied

- September 29, 1989 -- MSE, the runway extension project engineers, tell the FAA’ Lou Magid, Project Manager, that they are modifying their specifications that the thickness of the concrete used to construct the runway extension be done via core sampling. MSE certifies that the concrete thickness was “as required by the plans.” See Exhibit 51 in ODI files.
- October 5, 1989 – FAA’s Lou Magid writes to PDK Director Manget saying the FAA will NOT waive the requirement that the runway extension be subject to core sampling for determination of thickness of concrete. See Exhibit 52 in ODI files.
- October 25, 1989 – MSE writes to Manget saying although MSE has tried to dissuade them by having the thickness be determined



“by other means,” the FAA is still insisting that core sample be taken. MSE will notify the concrete paving sub, C.W. Matthews Construction Company. See Exhibit 53 in ODI files.

- November 14, 1989 – MSE sends results of core sampling taken on 11/7/89 by subcontractor, Hill-Fister Engineers, Inc. to FAA’s Magid, showing that the pavement depth on the runway extension and related taxiway extensions is 8.8 to 9.6 inches thick. See Exhibit 54. This is critical because it jibes with *all* of the previous information and certifications from the County and contradicts the later attempt by LPA and Remmel to up the pavement strength to 105,000# to permit larger aircraft to use PDK.
- January 8, 1990 – FAA’s Magid writes to Manget approving a change order to C.W. Matthews Company Contract for the runway extension “regarding replacement of additional pavement.” There is no indication of where the additional pavement was to go. Magid specifies that “the approval of this change order is subject to the same conditions as our approval of the original plans and specifications.” See Exhibit 55. The change order increases the pavement from 21,080 S.Y. to 21,395 S.Y. – only adding 315 square yards. I include this here in case the additional pavement

was used to increase the concrete to 11” somewhere and LPA Group tries to use that ‘somewhere’ as proof of the 11” thickness required for its conclusion that 105,000# is the pavement capacity.

- In May 1991, LPA Group commenced a Part 150 Noise Compatibility Study but used the same fleet mix of small aircraft, only, as used in the EA. See Exhibit 57. The NOMS is installed at this time as well: LPA brought in Technology Integration, Inc. “to coordinate, install, and maintain the [ANOMS], which provides full-time noise monitoring and radar tracking of aircraft operations.” See Exhibit 58, FAR Part 150 Noise Compatibility Study Volume 2 Update: Noise Compatibility Program Report prepared by Spectrum Sciences & Software, Inc. in association with Airport Technology and Planning Group, Inc., September 1996, p. 1-1. According to the Update, the 1991 LPA Group Part 150 study was completed in 1993 but never presented to the BOC or submitted to the FAA. Id. Thus an update was conducted in 1996. Id.

The Part 150 Update notes that in the original Noise Compatibility Study the fifth recommendation of the County’s Noise abatement Advisory Committee, **adopted by the BOC on May 14, 1991 states: ‘The policy of the**

**governing authority from this time forth shall be that there will be no lengthening, increase of weight bearing capacity or widening of any runway for any reason without an appropriate environmental document.”** Exhibit 58, Update at pp. 3-3 to 3-4 (emphasis added).

- June 1991 – Dynaplan Corporation prepares a Master Plan Update for PDK and states that “the fourth runway and taxiway is constructed of concrete with pavement strengths of 46,000 pounds gross single gear load, 66,000 pounds gross dual gear load, and 90,000 pounds tandem gear load.” Exhibit 60, section 2.1.1, p. 3
- January 6, 1992 - Dynaplan International Corp., consultant for the Airport / County for the Master Plan Update, writes to then Airport Director Ted Orvold regarding Feltus’ letter to Senator Sam Nunn re then-proposed improvements at PDK. Exhibit 62 at p. 4.  
  
Dynaplan states that “the weight bearing capacity of the primary runway is listed at 66,000 lbs.. [and ] the airport is being designed to accommodate aircraft in the Group II classification [less than 75k lbs.] . . . **The definition of weight bearing capacity and design group provides two practical limitations to the sizes of aircraft to use the airport.”**

In January 1992, Airport Director Orvold responded to a letter from Feltus, stating that “[t]he policy for aircraft operating at PDK is limited to a maximum landing weight of 66,000 pounds. That encompasses all current general aviation aircraft . . . This recommendation was approved on May 14, 1991 by the [BOC], and remains in effect.” See Exhibit 63 at page 2. An apparent draft of Orvold’s response shows his contempt for Feltus’ concern over the weight limit. See Exhibit 64. See comparison of quoted language above (in Exhibit 63) with draft language in document produced at PDK pursuant to GORA, Exhibit 64.

- In June 1992, LPA Group prepares an Engineers Report for 1992 Airport Improvements at PDK in which it discusses the extensive core sampling and borings it took in the **shorter runway 2L/20R** to determine its consistency. Exhibit 65 6/1992 LPA Engineers Report. [cf. the 1998-1999 “study” of the longer runway, 2R/20L, without core samples.]
- n June 21, 1996 CEO Liane Levetan denied a request from Mercer Dye of Air BP Atlanta a gas vendor at PDK for a waiver “of the administrative policy relative to the restriction of aircraft over 66,000 pounds at PDK . . .” See Exhibit 46. **Note no mention of the Grant Agreement or federal environmental studies done that resulted in a restriction on the weight of aircraft.** Now it is just a

“good faith measure on the part of the Administration to clearly illustrate that we do not desire aircraft over a certain size at the airport.” Id., 2d paragraph. The waiver would have permitted “a series of scheduled flights for [Piedmont’s] Boeing 737-200.” Id.

Ted Orvold resigned in January 1997 and Bill Tudor took over as acting director until Rimmel was hired. See Exhibit 66.

The FAA in Washington reaffirmed the 66,000# weight limitation in a letter to Feltus dated October 9, 1997. See Exhibit 67.

#### The Move to Bring in Larger Aircraft

August 1998 -- LPA Group letter to Bill Tudor, PDK employee, stating that it is presenting “data” and a “brief analysis of available pavement weight bearing capacity along the most prominent corporate jet traffic routs at [PDK].” See Exhibit 68 in ODI files, p. 1. Using the Gulfstream V with a MTOW of 100,000 lbs. as its design, or typical aircraft, LPA concludes that “[i]n light of the analysis contained herein, it appears that the Runway 2R/20L data, as presented on the current FAA Form 5010 [that reflects, inter alia, weight limitations of runways], does not reflect the available pavement weight bearing capacity of the runway. The gross weight dual wheel value shown in the Form 5010 data table

should be revised from 66,000 pounds to 100,000 pounds in order to more accurately depict the available runway capacity.” Exhibit 68, p. 4 of 4.

The LPA Group starts from its assertion that “the existing pavement structure consists of 11” of concrete on a 9” granular sub base. . . . This 11” concrete pavement structure has the ability to handle up to 3,000 annual departures over an FAA estimated design life of 20 years. . . . The existing pavement structure could handle repetitive daily aircraft maximum takeoff weights up to 105,000 pounds if necessary.” Exhibit 68, August 17, 1998 letter at page 3 of 4.

LPA makes no reference to having taken core samples and states outright that “[t]he existing pavement structure composition was verified via a review of airport improvements record drawings. The existing and 5-year forecast operational data, as presented in the 1996 Part 150 Update, was utilized for this analysis.” Exhibit 68 at p. 1. LPA and Remmel leave out any review of the MSE pavement design documents, Engineer’s Reports and the 1989 core sampling, all of which show 9” concrete, not 11” concrete on the runway extension. According to MSE, the design engineers for the extension, the extension was designed, in fact re-designed, down to 9” for a pavement weight bearing strength of 66,000 lbs. (See above discussion and Exhibit 40.)

The August 17, 1998 letter to Remmel from LPA is revised on September 9, 1998 and an italicized sentence added to the first paragraph:” The

enclosed color exhibit illustrates the location of the various pavement areas which are evaluated in this document, as well as their relationship to the overall airfield pavement structure.” See Exhibit 70. The ODI copy of the 9-9-98 revised letter does not have the “color exhibit” it references, but it does have the statement that was in the first version, that the “pavement structure composition was verified via a review of airport improvement record drawings.” See Exhibit 70, 2d paragraph on page 1. There is no reference to core samples. See also Exhibit 71, Rimmel response to Brethour GORA request in which he says there are no records regarding a core sample taken in connection with the 1999 NBAA Annual Conference and Convention of 1999, the purported motivation for Rimmel to request the LPA “study” of pavement strength.

The 1998-1999 Rimmel/LPA “study” also seeks to change the terms of the debate from pavement design strength, a term used in the EA, the FONSI and relied on by the 11<sup>th</sup> Circuit to “capacity,” i.e., how much beating can it take before it has to be replaced? But MSE also talked in terms of the 3000 annual operations model in its October 1, 1987 Engineer’s report to the FAA. See Exhibit 40 in ODI files. Given the MSE Engineer’s Report stating that the design was changed from 11’ to 9” and the core samples showing 8.8 to 9.6” in the extension, the County’s 1987 certification that the extension pavement would be built to spec (Exhibit 34) and the FAA’s records indicating no pavement strength improvement

grants, LPA's reliance on alleged "airport improvement record drawings" is misguided at best and fraudulent at worst.

January 22, 1999 – LPA Group subcontractor DYE Aviation Facilities, Inc., letter to Remmel requested by Remmel "to clarify the weight bearing capacity for Runway 2R/20L." See Exhibit 72 in ODI files, p. 1. Again using the 11' concrete assumption about the Runway (without specifying original runway versus the 1000' addition), LPA says the Runway is capable of handling 3,000 annual departures of the design aircraft with a MTOW of 100,000 lbs. but after converting all aircraft operations in the 1996 Part 150 Study Forecast of operations for 2001, the forecasted operations would "use up" only 2,300 annual departures of the available annual capacity of 3,000 annual departures. So, the available capacity is 13 departures per week of a G-V or Global Express with MTOWs of 90,000#. See Exhibit 72 at p. 2.

LPA also says in the January 1999 letter that aircraft noise and safety "have absolutely nothing to do with weight. In fact the Gulfstream IV and V are two of the quietest business jets in operation." See Exhibit 72. The letter does not go so far as to say that the business jet fleet is quieter than smaller general aviation fleet, only that of the business fleet, the G-IV and V are the quietest. Via fax to Remmel dated January 25, 1999, LPA's Mike Reiter provides Remmel with the FAA form 5010 appendix that advises how to determine runway gross weight



strengths to go into FAA form 5010, the publication that is available to all airport users. See Exhibit 69 in ODI files. The 5010 Appendix points out that the gross weight data derived from the methodology required “are merely indicative of what exists at a particular airport. They are not to be construed as the only criteria used in determining the type of equipment that may operate at a particular airport since other factors, such as runway length, must also be considered.” See E. 69, FAA form 5010 Appendix 1 page 13. It appears that Rummel and LPA ignore that advisory statement and use the runway strength they have come with as the sole criteria for permitting larger aircraft to use PDK.

So, using the 11” concrete falsehood, the LPA Group and Rummel shift from pavement strength to “available capacity” using forecasts rather than actual operations (ANOMS data availability notwithstanding) to say that the Runway should be listed as handling 105,000 lbs. aircraft rather than 66, 0000 lbs. found in all prior documentation and used in the 1986 EA, the 1987 FONSI, the 1991 Part 150 Noise Compatibility Study and the 1996 Part 150 Noise Update. But MSE used the 3,000 annual departures, too in reporting to the FAA in 1987.

The fact that larger aircraft *could* use the runway (assuming 6000’ was enough) was of course physically true in 1986-1988 as well, but the EA and the FONSI and the 11<sup>th</sup> Circuit relied on the weight limitation as a *real* limitation on capacity. If the runway were now thickened to permit 105,000 lbs. aircraft, the limitation of

66,000# as an environmental mitigation measure and condition precedent to the agreement would still stand at least until an EIS was conducted that demonstrated no significant impact even with larger aircraft that could not be mitigated.

From April 1999 to May 1999, Rummel essentially argues with then-CEO Liane Levitan about his claim of authority to pre-authorize use of the Airport by all aircraft in excess of 75,000# but not more than 105,000#. CEO Levitan refuses to go that far, but permits Rummel to authorize each aircraft with a MTOW in excess of 75,000# and to blanket authorize all aircraft in excess of 66,000# but less than 75,000#. See Exhibit 48.

June 1999, CEO Liane Levitan responds to a Feltus inquiry regarding the weight limit, by stating that “[t]he 66,000 pound weight limit has been found to be an administrative policy that does not have the weight of a DeKalb County Code. See Exhibit 99, June 29, 1999 letter to Feltus from Levitan. This may be the first public statement that the weight limit is merely a policy and not an obligation of the County’s.

In September 2001, in response to an inquiry from Commissioner Gale Walldorf, Lee Rummel tells her that there is no weight limit on aircraft, but that County Ordinance 6-93 requires preauthorization for aircraft in excess of 75,000#. See Exhibit 45 in ODI files. Similarly, Rummel had told Commissioner Judy Yates the same thing in January 1999 in response to her suggestion that the

66,000# weight limit be made a part of the County's Comprehensive Plan for PDK. See Exhibit 47. He relies on the LPA Group "study" to tell her that the pavement strength governs what aircraft should be permitted. Id.

In March 2001, in response to Ms. Yates' request, she received a memorandum from the County Attorney regarding "current policies and regulations in effect at [PDK] regarding aircraft in excess of 75,000 pounds." See Exhibit 96 in ODI files. Attorney Shannon McNeal "through Charles Hicks" explains County Code section 6-93's requirement that such aircraft must obtain prior authorization before each arrival and departure at PDK, but very carefully makes plain that, "However, to date the Law Department has not reviewed the federal grant assurances which the County has made to the FAA when accepting funds for improvements at the Airport property itself." Exhibit 96 in ODI files at p. 2 of 2. The Law Department was not provided the relevant information or ignored same so that it could render "legal opinions" without the lawyers being disbarred.

Similarly, in August 2002, CEO Jones obtained a legal opinion from the County Attorney on weight limits at PDK and the County Attorney opined only that the 11<sup>th</sup> Circuit decision did not "impose" a weight limitation. See Exhibit 50 in ODI files. The County Attorney drops a footnote to say the Legal Department has not looked at grant assurances or anything other than the C.A.R.E. NOW

decision in rendering the opinion that there is no weight limitation except that under County Ordinance that requires preauthorization for aircraft in excess of 75,000#. The County Attorney's limited opinion appears grossly inadequate to answer the question posed as he looked at none of the documents that demonstrate the existence of the weight limitation. (See discussion and citations above). In addition, no one is arguing that the Eleventh Circuit Court imposed a weight limitation, only that it recognized that the FAA and the County had done so and that it was a condition precedent to the grant agreement with the County.

The need for DeKalb and the FAA to shift the analysis to pavement strength is amply demonstrated by the FAA's proposed policy (summer 2003) that would consider an airport in violation of the anti-commercial discrimination assurance in a grant agreement if it prohibited aircraft for any reason other than pavement strength. See Exhibit 74 in ODI files. Presumably, Rummel and LPA knew that policy was coming and sought to move the pavement strength at PDK up from 66,000# to 105,000#. But the runway extension was approved and the "displaced threshold" put in place with assurances of a weight limitation as a mitigation measure. If the runway extension was overbuilt, the County breached the 1987 grant agreement. Regardless, at the very least, the County should be required to do an EA to lift the displaced threshold and permit larger aircraft from using PDK.

After LPA ignored the 1989 core samples showing the concrete on the extension to be only 9” thick, as well as all other documentation to that effect, CEO Jones, Director Remmel and LPA hid the bases for LPA’s conclusions: In April 2002, a citizen, Deserie McCauley, made a GORA request for core samples that according to her request CEO Jones said had been taken to verify the runway capacity of PDK by LPA. See Exhibit 75 in ODI files. Remmel responds to the request by saying he has to check with LPA Group as to whether such records exist and if so, when they might be available. See Exhibit 76 in ODI files. By letter of May 8, 2002 Remmel informs Ms. McCauley that he “has spoken to representatives of for the LPA Group . . . . The LPA Group no longer holds such records. Apparently, actual core samples were taken about 1992 for previous Airport projects. However, due to the fact that these records are now so old and the fact that the LPA Group, Inc. offices have recently moved, these files were purged from their records keeping files in the move.” See Exhibit 77. See also Exhibit 142 in ODI files, Remmel’s response to GORA request in which he erroneously says there are no records regarding a core sample taken in connection with the 1999 NBAA Annual Conference and Convention of 1999, the purported motivation for Remmel to request the LPA “study” of pavement strength.

ODI has the 1989 results of FAA mandated core sampling and ample other evidence that LPA Group’s “study” is baseless and part of a scheme to

permit larger aircraft to use PDK.

A February 2, 1999 memo evidences that LPA Group had a contract to prepare spec.s for pavement repair work in 1999. See Exhibit 78. Remmel wasted no time in disseminating LPA Group's January 1999 letter saying the published Runway loading should be 105,000#, not 66,000#. In addition to using it with Commissioners Waldorf and Yates, by letter of January 27, 1999 he asks that the FAA's publications be changed accordingly:

. . . [I] asked the LPA Group, Inc, our airport consultant, in August 1998, to research and verify the actual weight bearing capability of the main concrete ILS runway, Runway 20L/2R, and the adjacent parallel taxiway, Taxiway 'A. The LPA Group has confirmed for me that Runway 20L should be listed as 105,000 pounds dual wheel weight and not the 66,000 as is currently listed [in two formal FAA publications for use by pilots.]

1-27-99 Remmel letter to FAA's Scott Seritt.

This conduct may be the template for Director Evans' current misuse of the grossly incomplete and unreliable KB "study" to push through the current Master Plan.

In response to that January 27, 1999 letter, the FAA examined the information it had about the pavement strength of the Runway and noted that there were problems with larger aircraft coming into PDK. According to a 2/5/99 FAA internal email from FAA's Lee Kyker to FAA's Terry Washington, the FAA asked for the LPA Group pavement study and asked Remmel to identify the heaviest

aircraft using PDK. See Exhibit 33 in ODI files. Remmel said it was a Gulfstream V with a MTOW of 90,500 lbs. and that PDK would “soon” be getting Global Express with a MTOW of 93,500 lbs. The FAA personnel note that the then-currently approved Airport Layout Plan reflected pavement strength of only 66,000 lbs. and classified PDK as only a C-II airport. C-II airports are limited to aircraft with MTOW’s less than the 105,000# aircraft sought after by Remmel. The email seems to question the LPA Group’s 105,000# determination in stating that the FAA had never given any runway strengthening grants to PDK. The FAA also questions a C-II airport like PDK, with only a 500’ separation between its parallel runways permitting larger operations when 700’ is required for such operations. The email ends with an assignment to “discuss environmental questions raised with Mr. Brill.” [Stephen Brill was the Division Manager, Airports Division, FAA]. See Exhibit 33, 2/5/99 FAA email to Terry Washington.

In a responsive email dated 2/8/99, the FAA’s Lee Kyker explains to Scott Seritt, Manager, Airports District Office, FAA that in effect, the 1987 FONSI requires maintenance of the 66,000 lbs. limitation. The email, discussed above and repeated here for ease of reference, states as follows:

In regards to the FONSI (dated 8/17/87) for the runway extension, the FONSI states ‘the runway extension is neither designed nor intended to accommodate operations by aircraft larger than the ones presently using the airport.’ (See FONSI, page 1, last paragraph)[sic] While the

statement was not made to intentionally limit the weight of aircraft that can use the runway, I believe it does just that in that our environmental finding was based on this premise of 66,000 gross takeoff weight limitation. Further, the noise analysis was based on aircraft weighing less than 66,000 lb. Heavier aircraft were not considered. Within the EA, references to the weight bearing capacity of the runway can be found on page III-1, III-3, IV-14 & 16 and VI-7.

Exhibit 33, Kyker email to Scott Seritt, copied to Terry Washington and Rans Black, 2/8/99.

Interestingly, on February 18, 1999, Rummel faxes the C.A.R.E. Now opinion to Scott Seritt, Manager, FAA Atlanta Airport District Office, "Subject: 66K Gross Weight @ PDK . . . Comments: Forwarded per your request." See Exhibit 81.

Apparently, the FAA did not alter its records regarding the runway weight limit to reflect 105,000#. See Exhibit 82, FAA Master Record from 1999. Obviously the 105,000# figure urged by Rummel with the LPA "study" was not accepted by the FAA. The State of Georgia Department of Transportation did change its published weight bearing limit of the Runway from 66,000# to 75,000#, but changed it back to 66,000# one week later when the FAA asked for explanation of the change. See Exhibit 83, handwritten note from FAA to GA DOT and handwritten instruction by Tom Carr of GA DOT to change the weight limit back to 66,000#. See Exhibit 97 for Feltus request for explanation from GA DOT on change from 66,000# to 75,000# and then back, and response thereto.



Remmel apparently sent the January 1999 LPA Group “study” results around the aviation community immediately. Within days of the January 1999 letter from LPA to Remmel, several aircraft owners with planes at PDK sent letters citing the LPA “study” in opposition to a then-pending proposal by Commissioner Judy Yates to have the DeKalb County Comprehensive Plan for PDK officially include a limitation on aircraft weighing in excess of 66,000 lbs. MTOW. For example, on January 29, 1999, the Gulfstream Corporation writes to Yates in opposition to her proposed ban of aircraft weighing more than 66,000#, stating that “For over 40 years, Gulfstream has produced large cabin aircraft, many of which are based at PDK.” Exhibit 92. Gulfstream cites the LPA “findings.” Id. Similarly Post Properties sent a letter in opposition and copied the FAA. See Exhibit 93.

On February 2, 1999, already, Rollins, Inc. wrote to Commissioner Yates opposing her proposal, citing the LPA “study” on runway capacity at PDK. The Rollins letter states that “corporate jet aircraft have increased in size and weight and have successfully used PDK without incident on a daily basis. The FAA approved the new runway expansion for 105,000 pounds so use of the airport by the heavier aircraft has not been in violation of any FAA rules.” See Exhibit 91, February 2, 1999 letter from Rollins to Yates.

Similarly, on February 4, 1999, Mercury Air Center writes to the County opposing Commissioner Yates' suggestion and states that "[t]he briefing by Mr. Lee Rummel, the PDK Airport Director, stated the facts best: the 66,000lbs. limitation has no basis in fact. The main runway is designed for 105,000 gross weight, therefore, if we have any limiting factor at the airport it should be what the airport is designed for and not limits that are discriminatory." See Exhibit 94.

On February 8, 1999 the National Business Aviation Association ("NBAA") faxed Steve Brill, FAA, Airports Division Manager, a copy of the NBAA's 2-8-99 letter to County Commissioner Judy Yates opposing her suggestion and states that "the FAA's Airport Division Office in Atlanta "indicated the 66,000 pound number is in question: and further they indicated that [PDK's] primary runway and principle ramp areas can accommodate aircraft on a sustained basis that are 105,000 pounds [MTOW]. FAA did confirm that they are taking steps to have the current information clarified in the FAA Airport/Facility Directory]." See Exhibit 95.

By letter dated July 27, 1999, LPA's Mike Reiter informs Rummel that the use of PDK by the Boeing Business Jet at the NBAA Annual Conference of 1999 will have only minimal impact on the structural life of the Runway. See Exhibit 80, 7-27-99 letter to Rummel from LPA Group.

Interestingly, Rimmel's file at the Airport on "weight limitation" includes a printout of the chronology of the weight limitation representations *and changes therein* over time, printed from the PDK Watch website on 11/12/01. See Exhibit 73.

In January 2002, Rimmel writes to the GA DOT seeking State funding to reconstruct most of the taxiways used in connection with the Runway. He tells the State that "[t]he airport's primary runway, Runway 2R/20L, and about 60% of the parallel taxiway, Taxiway A, are already concrete built to the same engineering standards. . . . Altogether, this project will provide a runway and connecting taxiway infrastructure that will accommodate all aircraft currently in the business aviation fleet." See Exhibit 99, Application for State Assistance, p.1. Using the LPA fiction of 105,000#, Rimmel seeks State funds to bring the taxiways up to 105,000# as well. That attempt has been on-going to date (April 20, 2004) and Evelyn, Mickey and others (including AAB and BOC members) are struggling to ensure that Rimmel and LPA are not over-engineering the taxiway plans to 105,000# even though the BOC unanimously voted in 2003 to limit the strength of the taxiways to aircraft with maximum take off weights of 75,000 # or less.

So after a simple chat with Rimmel, the FAA made a silent decision that no EIS is required to study the environmental impact of the huge jets now using PDK, regardless of all of the reliance on the limitation to smaller aircraft placed by the

County, the FAA and the Eleventh Circuit previously. Just in relation to their undermining of the NEPA, alone, let alone the contract entered into between the County and the FAA and the reliance by many people on honest and open government in deciding whether to buy or sell homes near the Airport, it is no wonder that the County and the FAA have kept quiet as to what type of aircraft are now using the Airport.

Currently, PDK is pursuing a Master Plan that will require a 180 degree change by the DeKalb County Commission to ignore the weight limit and approve a Master Plan using a Gulfstream 550 as the model aircraft and needlessly exposing the Dekalb County citizenry to unknown environmental public health hazards that benefit the corporations that enjoy using PDK for their large business jets at the expense of the unwitting public.