



**CLE** CLEVELAND HOPKINS INTERNATIONAL AIRPORT

**BKL** CLEVELAND BURKE LAKEFRONT AIRPORT

May 20, 2009

Sent Via Overnight Delivery and Messenger Delivery

Mr. Craig K. Hebebrand, PE, Project Manager  
Ohio Department of Transportation, District 12  
5500 Transportation Boulevard  
Garfield heights, OH 44125

Mr. Herman Rodrigo, Office Director  
Federal Highway Administration, Ohio Division  
200 North High Street  
Columbus, OH 43215-2048

Subject: City of Cleveland Department of Port Control Comments on FHWA  
OH-EIS-09-01-D---Cleveland Innerbelt Project Draft Environmental Impact Statement

Dear Messrs. Hebebrand and Rodrigo:

In your roles as joint lead agencies for the proposed project involving the Cleveland Innerbelt (see project name above), the Federal Highway Administration (FHWA) and the Ohio Department of Transportation (ODOT) published on April 8, 2009 a Draft Environmental Impact Statement (DEIS) for public comment for this project.

The City of Cleveland Department of Port Control (DPC) is the public entity assigned by the City of Cleveland Charter as the responsible agency for the operation, maintenance and improvement of Cleveland Hopkins International Airport (CLE); Burke Lakefront Airport (BKL--see first exhibit attached) and various City-owned harbor properties located in Cleveland.

The DPC has reviewed the subject document and believes it to be fundamentally deficient in its responsibilities under the National Environmental Policy Act (NEPA) related to its omission of disclosure of negative impacts of the proposed project on BKL.

The DPC's concerns with the project and its proposed impacts have been communicated to FHWA and ODOT over a series of meetings and e-mail messages occurring over a period of months beginning in 2007, continuing through the early months of 2008, and culminating

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in a meeting involving the parties at ODOT's District 12 office located in Garfield Heights in June, 2008. We have been awaiting further communication from both of your agencies regarding the serious negative impacts on BKL that were reiterated by DPC representatives in that meeting but, as of this writing, thus far have received none.

In our review of the project appearing in the above noted DEIS, it is the DPC's determination that propose project has not been altered from its earlier versions, iterations or conceptual plans in a material enough manner to include avoidable impacts of BKL and, in those cases where impacts to BKL may be unavoidable, the DEIS does not in any sufficient or acceptable manner address the methods that FHWA and ODOT plan to compensate the City and BKL for the taking of its airport property. Compensation or mitigation for property takings is required under NEPA and in the federal Uniform Relocation and Real Property Act.

Therefore, the DPC believes the aspects of the DEIS that purport to address impacts on BKL are not sufficient, do not meet the joint agencies' responsibilities under NEPA, and the project must be further reconfigured before the FHWA publishes an Final EIS (FEIS), or moves forward to the issuance of a Record of Decision (ROD). As you will note, we are providing a copy of these comments to the Federal Aviation Administration (FAA) as well, in its role as a participating agency in this publication.

#### BACKGROUND:

Burke Lakefront Airport (BKL) is the primary general aviation reliever to Cleveland Hopkins International (CLE) and is an essential element of the Cleveland Airport System. BKL accommodated over 80,000 annual flights which otherwise would migrate to other Northeast Ohio Airports, primarily CLE. In September 2007, Mayor Frank G. Jackson concluded a comprehensive analysis of BKL's needs, and announced that BKL would remain open, and would be improved via a variety of initiatives, including an updated master plan for the facility. The results of this master plan update were forwarded to the FAA in late 2007 and it is presently being reviewed by that agency.

In a series of meetings and e-mail exchanges occurring in late 2007 and through June 2008, DPC representatives communicated to ODOT (and to the FHWA official in attendance at the June 2008 meeting) that the improvements propose by the joint agencies to the Innerbelt that involved modification to the roadways in the vicinity of BKL would have serious detrimental effects on BKL daily operations (i.e. an intrusion into the Airport only aircraft hold pad, which is used by jet aircraft while taxiing to the BKL runways for departure); as well as the potential development or currently premium open space within

BKL airport property that is designated for future aviation -related development. There are no additional areas of BKL that are amenable to these types of development, so any intrusion of project such as the proposed realigned Innerbelt would have serious negative impacts on BKL's ability to continue to fulfill its role in the Cleveland Airport System and equally importantly, in the FAA "National Plan of Integrated Airport Systems (NPIAS). Therefore, the Preferred Alternative is inconsistent with both the local plan for BKL, and by inference with the FAA's NPIAS, which assumes a functional BKL long into the future.

FHWA and ODOT have proposed a dual-purpose project of essential repairs or replacement of the Innerbelt Bridge located over the Cleveland Flats, as well as proposed reconfiguration of a section of the Innerbelt in the "Dead Man's Curve"/ Interstate 71 area. The bridge rehabilitation or replacement has no discernible impact on BKL, and therefore the DPC has no comment on that portion of the proposed project.

However, the proposed road realignments would have serious negative impacts on existing BKL operations, as well as consume a large portion of the extremely limited open space area on the North Marginal Road side of BKL. This open space is essential to BKL's future economic viability and development potential. 2

In this DEIS the FHWA and ODOT have not altered the proposed alignment of the Innerbelt roadways sufficiently to avoid impacts on BKL.

DPC notified both ODOT and FHWA of these serious impacts as recently as June 2008, and asked the agencies to revise their project alternative for the roadway realignment. A meeting was held between DPC and FHWA/ODOT where an alternative roadway alignment was mutually developed to avoid impacts to BKL. District 12 Management officials of ODOT were involved in these discussions, and assisted in the creation of the alternative alignment. In this June 2008 meeting with ODOT's Bonnie Teeuwen, DPC was advised that ODOT would no longer entertain alternatives to their original proposal that would restore developable land to the BKL property should the proposed FHWA/ODOT go forward. In that same meeting, DPC representatives advised the FHWA official in attendance that if FHWA should continue with their proposed project in its present form, without adopting an apparent "win-win" realignment that was mutually conceived, and if the DEIS did not include the alternative alignment as mitigation for the proposed intrusion into BKL, then the DPC would be forced to challenge the findings of their DEIS to protect the City's interest in the viability of BKL. Therefore, we submit our comments appearing herein, and within Attachment "A" to this correspondence.

Since that June 2008 meeting, and until the release of the DEIS to the public on April 8, 2009 neither FHWA nor ODOT had contacted the City to advise us of any changes to the original proposed alignment of the project. The FHWA and ODOT now have released the DEIS, and the FHWA/ODOT Preferred Alternative for the Innerbelt Project appears to include minor changes to the realignment that would minimize the direct intrusion of the roadway into the aircraft hold pad, but the revised alignment is not sufficient to avoid major negative impacts on BKL. Impacts still remain to the existing operation of the BKL aircraft hold pad, the diminishment of the development potential of existing airport property, and the associated value of airport property.

#### Project's Negative Impact on Existing BKL Operations:

Based on the exhibits contained in the DEIS for the Cleveland Innerbelt Project, North Marginal Road would enter BKL airport property south of the eastern edge of Airport property and intrude into the BKL airfield, remaining on airport property for a distance of approximately 1,190 linear feet and exit BKL airport property at a point due south of Taxiway E. This alignment will impact the only operational aircraft hold apron for aircraft queuing for departure on the adjacent runway. The associated alignment of the airport security fence and on-airport perimeter road also would have to be reconfigured to parallel the northern right-of-way of North Marginal Road.

The depth of penetration of the roadway system onto airport property would be approximately 106 feet and the point of greatest penetration would be approximately 248 feet west of the existing aircraft hold pad. (Please see attached exhibit, Preferred Alternative A in the DEIS, illustrating the intrusion into BKL). The proposed layout places the on-airport roadway approximately 49 feet from the hold pad at its closest point and would require the development of a blast fence approximately 34 feet from the closest portion of the existing hold pad. However, please note that the detailed alignment exhibits presented in the DEIS do not provide a clear delineation of the portion of the Airport Access Roadway closest to the airport hold apron (Exhibits 32 & 33 from the DEIS). The only exhibit we have that depicts this area is DEIS Alternative A, Exhibit E, and it appears to match the layout that was provided to DPC in June of 2008. 3

Please note that while the utilization of the existing hold pad would not be adversely affected by the reconfigured alignment, a blast fence would be required in order to maintain the operational functionality of the aircraft hold pad and protect motor vehicles from jet blast exhaust. Therefore, the statements appearing on page 4-40 of the DEIS that "No impacts to aviation are anticipated" and that "There will be no impacts on airport operations," are not accurate. It would be the responsibility of FHWA and /or ODOT to fund the design and development of the blast fence to FAA and DPC specifications, in order 3

for this statement to be true. None of these necessary prerequisite mitigation efforts are proposed for inclusion on ODOT's project as it appears in the DEIS. Without inclusion of the mitigation in the DEIS, FHWA and ODOT will not be able to access federal grant-funds to cover the costs of the procurement and installation of a jet blast fence. 3

Therefore, the statement appearing in the DEIS in Section 4.2.10 "Other Transportation Modes of the in Study Area" --- "Burke Lakefront Airport" and "Environmental Consequences": are both factually incorrect and moreover insufficient in the content requirement of a DEIS under NEPA.

Project's Negative Impact on BKL Future Development:

The second major consideration, which was noted in previous reviews by the DPC of the proposed roadway plans, and not accurately addressed in the FHWA/ODOT DEIS, relates to the direct loss of property required by the proposed roadway realignment and the impact that the alignment of the road would have on properties that lie immediately adjacent to the airport property required for the road realignments.

Despite the adjustments that have been made since the original concept developed by the agencies dating back several years, the current proposed layout appearing in the DEIS does not negate (or significantly mitigate) the adverse impacts on the development viability and value of the limited property available for aviation related development at BKL. The fact that (1) BKL already has a significantly constrained inventory of property for aviation related facility development; and (2) the announcement by the City that the airport would remain open, is resulting in a subsequent upsurge in inquiries from businesses interested in developing aviation related facilities at the airport, which results in the need to maintain the viability of property fronting North Marginal Road for airport facilities. This point has been clearly noted in the previous meetings with representatives of ODOT and the situation has not changed (See third exhibit, October 2007 Airport Layout and Future Development Plan for BKL). 2

Based on the proposed roadway realignment appearing in the DEIS, approximately 2 acres of property would be required to accommodate the actual relocation of North Marginal Road, the associated sidewalk, and the relocation of the on-airport perimeter roadway. However, this does not accurately represent the true and full impact of the proposal. What is not recognized by FHWA and ODOT in the DEIS is the fact that their impact to BKL extends beyond the 2 acres required for road construction. Development potential of an additional 3 acres of land lying adjacent to the proposed roadway alignment (beyond the 2 acres specifically noted by ODOT as required for the alignment) is adversely impacted and in some cases functionally negated by the roadway geometry and the resulting parcel

configuration of the remaining land parcels after the roadway is constructed. Thus, the impact of even the revised roadway alignment encompasses approximately 5 acres of an already limited developable land area. This point has been clearly and definitively made and discussed with ODOT in previous coordination meetings, but the issue is not included in the DEIS document.

In early 2008, ODOT officials identified the option to reconfigure the interchange connecting the Cleveland Memorial Shoreway to South Marginal Road to reduce the significant adverse impact that the initial configuration had on BKL as one means of offsetting the impact of their proposed I-90 reconfiguration. (See attached exhibit.) DPC evaluated the proposal at ODOT's request and found that this reconfiguration would result in an acceptable means for the City to recapture developable land on BKL, thereby offsetting the negative impact on development that would result from ODOT's intrusion on to airport property. The Preferred Alternative in the DEIS should have studied this additional feature, and included it within the DEIS (and any subsequent FEIS or ROD), and required mitigation for what now appears to be an unrecognized, and uncompensated, property taking at BKL. In any event, the type and amount of compensation that would be due to BKL would need to be reflective of the cost of the lost property in the larger context of the essential nature of this property to the overall future development viability at BKL. This situation is not addressed in the DEIS. 4

**CONCLUSION:**

While the proposed layout delineated in the DEIS somewhat reduces the level of impact on BKL from the original proposal, there remains significant and adverse impacts to the inventory of developable land acreage available to BKL. As noted, these impacts are associated with the acreage being committed to the proposed roadway realignment, along with negating the development viability (essentially inverse condemnation) of property between the realigned roadway and Taxiway G. The reduction of developable land area has a direct and very real economic impact to the airport and to its long term viability as a key corporate reliever for Cleveland Hopkins International Airport. These impacts and the costs associated with these impacts are real and must be fully considered by FHWA and ODOT. The agencies are required by federal law to disclose any adverse impacts of their proposed project in the DEIS. The DEIS released by the agencies on April 8, 2009 fails to do so.

If the proposed roadway alignment, identified as the Preferred Alternative in the DEIS, is approved for construction, ODOT would need to compensate the City for approximately 5 acres of property that has been committed for aviation-related facility development, as

**CITY OF CLEVELAND DEPARTMENT OF PORT CONTROL COMMENTS ON FHWA/ODOT DRAFT ENVIRONMENTAL IMPACT STATEMENT (CUY-90-INNERBELT, PID NO. 77510)**

**RE: POTENTIAL TO IMPACT BURKE LAKEFRONT AIRPORT (BKL)**

In addition to the comments appearing in DPC correspondence dated May 20, 2009 please accept these additional comments regarding specific sections within the DEIS.

**EXECUTIVE SUMMARY**

**1. Actions Required from Other State and Federal Agencies**

In the DEIS Executive Summary, page ES-13 and the DEIS page 6-2, Actions Required from Other State and Federal Agencies, neither the FAA nor the City of Cleveland (owner of BKL) are listed. The DEIS states that the Airport Access Road would need to be reconfigured/redesigned and the information depicted on Exhibit E for Alternative A shows the realignment of North Marginal Road, and the construction of a concrete barrier on airport property. **Therefore, both the FAA and the City of Cleveland (airport sponsor) should be included in the listing of actions required from other agencies. The Cleveland Airport System would need to submit a land release to the FAA for review and approval.**

FAA approval is required to release the airport sponsor from any one of the obligations carried on the land, in land transfer and grant agreements or for a total release to permit the sale or disposal. The FAA requires any release, modification, reformation, or amendment of an airport agreement be fully documented and be in accordance with FAA Order 5190.6A, Airport Compliance Requirements, dated October 2, 1989, because it represents a material alteration of an important contractual relationship that is governed by statutes and which affects the measure of benefits to the public from the operation of a civil airport. All costs associated with any potential land release should be borne by the project proponents, FHWA and ODOT, and should be included within the project cost estimates, and recognized in the DEIS.

**2. Impacts to Burke Lakefront Airport with the Preferred Alternative (A)**

Page ES-10, Identification of Preferred Alternative, references Table 4-39 in the DEIS (pages 4-57 to 4-62). This table summarizes the factors used in the selection of the FHWA's recommended Preferred Alternative, Alternative A. BKL is referenced twice in this summary table; once in the discussion of the Innerbelt Access and again in the discussion of Other Transportation Modes.

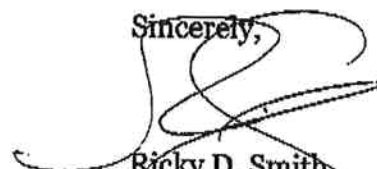
**INNERBELT ACCESS:** In Table 4-39 under the heading of Purpose and Need, Innerbelt Access, the Airport Access Road is listed as a local street that would need to be reconfigured/redesigned. The Airport Access Road is not a local public road, but instead is an on-airport service road for airport vehicle use only.

As depicted on Exhibit E for Alternative A, it appears that the realignment of North Marginal Road and a concrete barrier would be constructed on airport property. This exhibit also shows that the Airport Access Road would be realigned to the north and closer to the existing hold pad at the end of Runway 24R. While the use of the hold pad may not be adversely affected by the realignment of the Airport Access Road, a blast fence (or some type of jet blast barrier) would be needed to maintain the operational functionality of the

shown on the BKL Airport Layout Plan, and the resulting loss in potential revenues from this property. The inclusion in the proposed project of the reconfiguration of the section of the Shoreway which would restore lost land to BKL would could be considered adequate mitigation of adverse impact of the project under NEPA, and the City of Cleveland would certainly further consider this revised version of the proposed project.

If you have any questions or concerns about any statement contained within this document, please contact me at 216-265-6022.

Sincerely,



Ricky D. Smith  
Director of Airports  
City of Cleveland---Department of Port Control

cc: Mayor Frank G. Jackson, City of Cleveland  
Federal Aviation Administration-Detroit Airports District Office

hold pad in relation to its proximity to the realigned Airport Access Road. **Therefore, the reconfiguration/redesign of North Marginal Road on airport property would require the approval of an FAA land release and the reconfiguration/redesign of the Airport Access Road would require mitigation in the form of a blast fence to minimize or eliminate the potential impact of jet blast to traffic on this roadway. All costs associated with these actions would be part of the FHWA/ODOT project and should be borne at one hundred percent by the joint agencies.**

**OTHER TRANSPORTATION MODES:** In Table 4-39 (pages 4-57 to 4-62) under the heading of *Affected Environment and Environmental Consequences, Other Transportation Modes*, it is stated there would be no impacts to airport operations. In Section 4.2.10 Other Transportation Modes, page 4-40, the property impacts within the limits of BKL are disclosed as are the coordination activities initiated with ODOT, FHWA, and the City of Cleveland.

The DEIS concludes that "the only impacts are land acquisition within areas planned for landside economic development within their long range plan. The airport will be compensated for property in accordance with real estate acquisition procedures." The DEIS does not address the opportunity cost for the development value of the property being acquired. Any reduction in the amount of airport property available for aviation-related facility development significantly and adversely impacts the development viability and value of BKL. Additionally, the DEIS does not disclose that the FAA is required to approve a land release<sup>1</sup> for the transfer or disposal of airport-owned property. This action should be included in the discussion of Actions Required from Other State and Federal Agencies, in both the Executive Summary and the DEIS. The information presented in the DEIS demonstrated fundamental lack of understanding of Airport operations, Cleveland Airport System operations; and the essential nature of the property in question to the future viability of BKL. Any taking of property at BKL must be mitigated by making available an equivalent area and use of property for future development. A proposal to realign a portion of State Rout 2 that presently intrudes into the BKL airport area could be considered adequate compensation for the taking of airport property. The realignment to State Route 2 should be included as part of the promised project, and full cost of the realignment bore by FHWA and ODOT for mitigation purposes.

Appendix E

#### Agency Coordination

In Appendix E of the DEIS, *Agency Coordination*, BKL is listed as one of the agencies contacted during the FHWA environmental process. A 2007 letter from FHWA to the FAA Detroit Airports District Office is provided in Appendix E. In this letter, dated July 25, 2007, FHWA extends an invitation to the FAA to become a participating agency with the FHWA and ODOT in the development of the EIS for the Cleveland Innerbelt project. This letter further asks that the FAA respond to FHWA in writing with an acceptance or denial of the invitation prior to August 29, 2007. No response letter from the FAA was contained in Appendix E.

Table 5-3 on page 5-9 of the DEIS, *Agency Responses to SAFETEA-LU Coordination* summarizes the correspondence between the Cleveland Airport System and ODOT. As of the ODOT letter, dated May 27, 2008, ODOT committed to revising the design of the

Innerbelt Curve alignment to reduce the footprint into airport property. ODOT noted that this change would eliminate impacts to any areas used for airport operations. Copies of these agency coordination letters are contained in Appendix E of the DEIS.

Despite the commitments contained in the agency coordination correspondence, Table 4-39 of the DEIS (under the heading of Purpose and Need, *Innerbelt Access*) states that the airport Access Road is one of the local streets that would need to be reconfigured/redesigned. As depicted on Exhibit E for Alternative A, it appears that the Airport Access Road would be realigned to the north and closer to the hold pad at the end of Runway 24R. **The Airport Access Road is located on airport property and this roadway realignment project is not a project depicted on the BKL Airport Layout Plan.**

Further, in Section 2.2.5 Innerbelt Freeway Access, page 2-12 of the DEIS, the reconfiguration and redesign of the Airport Access Road is not mentioned. **The scope and intent of this portion of the project needs to be clarified and clearly stated.**

The DEIS also states in Section 4.2.10, page 4-40, *Burke Lakefront Airport*, that coordination activities between ODOT, FHWA, and the City of Cleveland were initiated for the property impacts to BKL. **This statement also requires clarification. Will the realignment of North Marginal Road and the concrete barrier be constructed outside airport property? If the realignment of N. Marginal Road would require the acquisition of BKL property, the FAA would be required to approve a land release for the transfer or disposal of airport-owned property.**

#### Environmental Consequences

Page 4-22, *Land Use and Development*, should acknowledge that the proposed project is not consistent with the BKL Master Plan. [4<sup>th</sup> paragraph under 4.2.2, second sentence - 'relocation' is misspelled.]

Page 4-29, *Property Impacts and Relocation*, should disclose the land needed to be acquired from the airport and the impact it has to the airport's long term development.

Page 4-38, *Local Economic Impacts*, should discuss the reduction of developable land area and the economic impact to BKL and the long term viability of BKL as a reliever for Cleveland Hopkins International Airport (CLE).

Page 4-40 discusses the impacts to Other Transportation Modes. The only disclosed impact to BKL is land acquisition. The DEIS should disclose the potential economic and operational impacts to BKL.

- **ECONOMIC IMPACT:** Any FHWA alternative that would reduce the developable BKL acreage creates a direct economic impact to the airport and its long term viability as a key corporate reliever for CLE. BKL has a significantly constrained inventory of property which is needed for aviation-related development. BKL requires the revenue generated from on-airport development to support itself. The loss of potentially developable on-airport land reduces the prospect of future revenue generation.
- **OPERATIONAL IMPACT:** The proposed realignment of the Airport Access Road moves it in close proximity to the hold pad at the end of Runway 24R. A blast fence would need to be constructed between and the realigned Airport Access Road, N. Marginal Road and the hold pad to maintain the operational functionality of the hold pad.