



U.S. Department
of Transportation
Federal Aviation
Administration

Office of the Associate
Administrator for Airports

800 Independence Ave., SW.
Washington, DC 20591

SEP - 8 2006

Mr. Harvey L. Hall
Mayor of Bakersfield
1501 Truxtun Avenue
Bakersfield, CA 93301

Dear Mayor Hall:

**Bakersfield Municipal Airport, California
Response to Request for Closure**

We are in receipt of your letter dated January 5 addressed to Mr. Mark McClardy, Manager, Federal Aviation Administration's Western-Pacific Airports Division. We understand that the city of Bakersfield (city) is evaluating the feasibility of closing the Bakersfield Municipal Airport (Airport/L45) and consider your letter to Mr. McClardy as the official "Request for Release/Closure" (release request) to the FAA. This letter constitutes the FAA's response to the city's release request.

A. City's Request for Closure

Through its January 5, 2006 letter, the city requests that the FAA waive all deed and assurance obligations (Federal obligations) affecting L45. The city's intent is to close the airport and sell the land to redevelop the site for non-aeronautical purposes. As part of its release request, the city submitted maps, photographs, graphics, information on fair market value (appraisals), planned disposition of sale proceeds, and background on the environmental implications of the closure.

B. Release and Closure Process

The FAA supports airport development and preservation throughout the United States. This is shown in the current National Plan of Integrated Airport Systems (NPIAS). Title 49 USC § 47101, *et seq.*, provides for Federal airport financial assistance for the development of public-use airports under the Airport Improvement Program (AIP) established by the Airport and Airway Improvement Act (AAIA), as amended. Section 47107, *et seq.*, sets forth assurances to which an airport sponsor agrees as a condition of receiving Federal financial assistance.

Upon acceptance of an AIP grant, the assurances become a binding obligation between the airport sponsor and the Federal Government. In accepting Federal funding, namely AIP funds, the city has agreed to specific Federal obligations, including the commitment to keep the Airport open and make it available for public use as an airport. Because land was acquired with Federal funding, this obligation runs in perpetuity. Thus, the city may not close the Airport without FAA's consent and without a formal release of the city from the terms of the applicable Federal obligations.

Within the specific authority conferred upon the FAA by law, the FAA may act on a request by an airport sponsor to release, modify, reform, or amend airport grant agreements, but only when this action will protect, advance, or benefit the public interest in civil aviation. The FAA has rarely acted on an application to allow for the closure of an airport and then only in the highly unusual circumstance where the closing provides a benefit to civil aviation.

FAA considers each request to close an entire airport on a case-by-case basis based on demonstrated benefit to civil aviation. In most cases where a request to close was agreed to by the FAA, it included the development of a replacement airport of equal or greater value to the local and national aviation systems. This replacement airport is to be completed and operating before the older facility is closed. In addition, in most cases, all revenues (and not just repayment of past FAA grants) derived from the fair market value disposal of the old airport would be part of the benefit to aviation. Therefore, all those revenues would be obligated for other FAA-approved funding projects.

In summary, before agreeing to close an airport, the FAA would have to clearly determine that the airport no longer serves the purpose for which it was created, the closure would not prevent achievement of the purpose for which the airport was first created, and the loss of the airport will actually protect and advance the civil aviation interests of the United States. The FAA decision to grant or deny a closure request relies on the statutes, regulations, and FAA policies applicable to the specific types of agreements involved. The review and decision by FAA follows the guidance in FAA Order 5190.6A, *Airport Compliance Requirements*, Chapter 7 "Release, Modification, Reformation or Amendment of Airport Agreements."

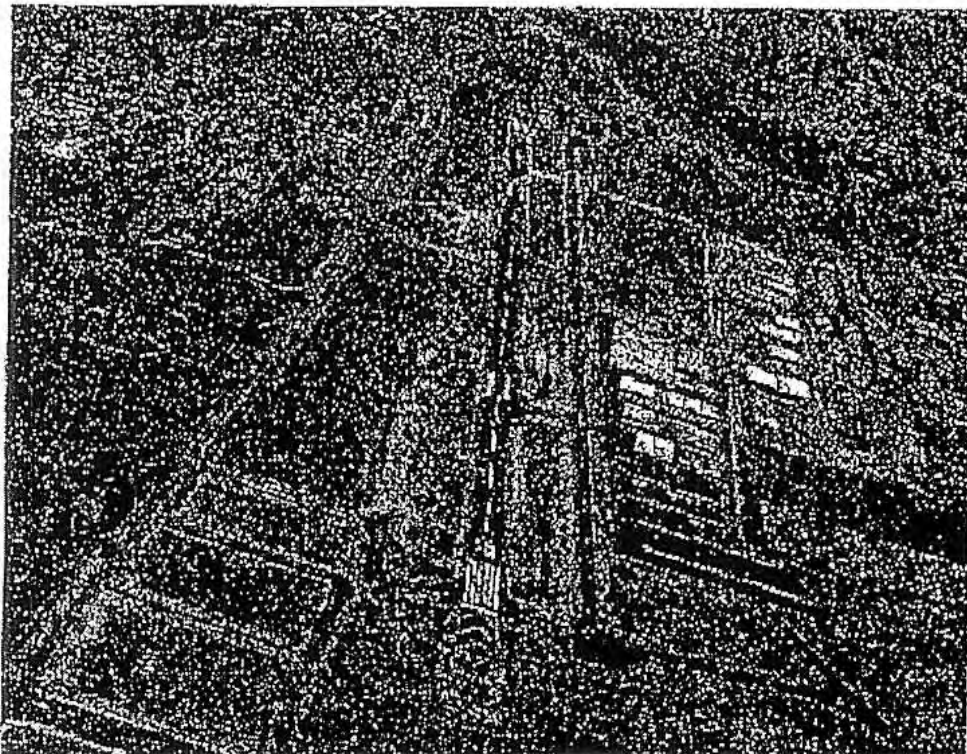


Figure 1 – Aerial view of L45. Source: <http://www.bakersfieldairport.us>

C. Background on Airport

L45 is one of two airports in the city of Bakersfield. The Airport is located on 252 acres of property in the southeast portion of the city, bounded by Union Avenue, Watts Drive, Madison Street, and White Lane. Other airport property used for runway protection zones (RPZ) is located north of Watts Drive and south of White Lane. The land is generally zoned light manufacturing and heavy industrial.

Although the Airport began as a privately owned crop-duster airstrip in the early 1980s, the city, with the assistance of Congressman Bill Thomas, secured FAA AIP funding to buy the Airport, acquire additional land, and construct a new general aviation airport that complied with FAA airport design standards. Land was first purchased in 1985. Over the years, the Airport was enlarged to its present size. In addition, the 4,000-foot Runway 16/34 was completely rebuilt and realigned and now includes a full-length parallel taxiway. There are approximately 100 aircraft based at L45 and approximately 30,000 annual operations at the Airport. A site inspection conducted by FAA officials in early 2006 indicates that the airfield is presently in very good condition and well maintained (see Figure 1 above).

D. Federal Investment and Obligations

The level of Federal funding at the Airport underscores the importance of the Airport. FAA records indicate that the planning, acquisition, and development of L45 has been financed for the most part with funds provided by the FAA under the AIP, authorized by the Airport and Airway Improvement Act of 1982, as amended, 49 USC § 47101, *et seq.* As shown in Figure 2 below, between 1985 and 2004, the Airport received a total of \$10.13 million in Federal airport development assistance in the form of AIP grants. All property has been conveyed to the airport sponsor/owner by grant deed for airport development, runway extension, approach protection on both ends of the runway, and pavement rehabilitation. Because land was acquired with AIP funds, the Federal obligations affecting L45 do not expire.

Figure 2. Table 1 – Grant History for L45. Source: FAA

Grant Amount	Purpose	Grant Number	Year
\$2,096,948	Land Acquisition	3-06-0323-001	1985
\$60,615	Master Plan Update	3-06-0323-002	1986
\$2,038,564	Land Acquisition/Roadwork	3-06-0323-003	1986
\$1,071,744	Land Acquisition/Development	3-06-0323-004	1987
\$1,007,021	Land Acquisition/Development	3-06-0323-005	1988
\$1,072,940	Airport Development	3-06-0323-006	1989
\$1,068,200	Airport Development	3-06-0323-007	1990
\$486,178	Airport Development	3-06-0323-008	1991
\$282,862	Land Acquisition/Development	3-06-0323-009	1993
\$617,236	Land Acquisition	3-06-0323-010	1996
\$176,000	Rehabilitation	3-06-0323-011	2003
\$150,000	Taxiway	3-06-0323-012	2004
Total Grant Amount: \$10,128,308			

E. City's Justification for Release, Closure, and Disposal

In arguing for the release and closure of L45, the city presents several arguments. These are:

1. the financial situation of the Airport justifies its closure;
2. the airport is underutilized;
3. the highest and best use of the land is redevelopment for a mixed-use development and the closure is needed to improve this blighted and economically depressed area of the city;
4. safety concerns; and
5. other airports can accommodate the displaced aeronautical users if L45 were to close.

As a preliminary matter, none of the city's justifications (except perhaps safety concerns, if founded) can be considered as a basis for the closure of an airport. None of the city's other arguments are recognized by FAA as a basis for justifying the closure of an airport. However, we will respond to all of the city's arguments to provide a comprehensive understanding of our views.

1. The financial situation of the Airport justifies its closure.

The city believes that the financial situation of the Airport justifies its closure. The city argues that "during the first several years the expenditures greatly exceeded revenue" and that "since the 1990's, the city has operated the airport at minimum expense and effort to assure that revenues would be greater than expenditures." The city contends that it has been operating the Airport for 20 years, and during that period of time has spent more in operating costs than it has received in income from airport-related uses, that "even after operating the airport for 20 years, the cumulative totals show that expenditures exceed revenue by \$27,392." In other words, the city argues that the Airport is costly to operate and not self-sustaining.

FAA Response

Notwithstanding the fact that "during the first several years the expenditures greatly exceeded revenue," and that "after operating the airport for 20 years, the cumulative totals show that expenditures exceed revenue by \$27,392," a review of the information submitted by the city indicates that the actual financial condition of the Airport today is healthy. The Airport is self-sustaining with the potential to earn more revenue. Finally, the city admits that the Airport generates enough income to sustain itself on a yearly basis — approximately \$150,000 for 2004-2005. The city's own *Summary of Actual Revenues and Expenditures* shows that since 1994-1995, the city has operated the Airport with a surplus averaging \$42,000 per year.

Of concern to FAA is an apparent recent city practice of not soliciting or accepting proposals for Airport tenant-financed capital improvements or granting long-term leases. By discouraging aeronautical development, the city is undermining the Airport's long-term growth. The Airport has vacant land available to build more aviation facilities and the airfield infrastructure to meet the needs of a wider aircraft mix. Despite this, it appears the Airport is in sound financial condition.

The FAA does not require that airports necessarily break even on finances. Although it is expected that an obligated airport will operate in a manner to be as self-sustaining as possible, it is also expected that the airport sponsor will financially support the airport if necessary to meet its Federal requirements. However, in this case, the Airport is self-sustaining and financially sound and there is no merit in the city's claim that the financial situation of the Airport justifies its closure.

2. The airport is underutilized.

The city claims that the Airport is underutilized and that the Airport is used sparingly with operations remaining stagnant over the past several years.

FAA Response

This argument by the city is not supported by the facts. First, the Airport's 100 based aircraft and 25,000 annual operations are not indications of underutilization. In fact, these are healthy activity levels by any standard for a general aviation (GA) airport in the National Plan of Integrated Airport Systems (NPIAS). Typical GA airports in the NPIAS have an average of 33 based aircraft. At L45, there are no less than 82 different leases and agreements for aviation hangars, aircraft tie-downs, ground leases, and commercial leases. The current Airport Layout Plan (ALP) shows a significant number of hangars, tie-down facilities, and large tracks of airport property planned for future aviation development. Based on this alone, the FAA views L45 as playing a critical role in the local, state, and national airport systems.

Second, as discussed above, the level of Federal funding committed at the Airport is an indication of the importance of the Airport. The FAA would not have funded a total of \$10.13 million in Federal airport development assistance in the form of AIP grants, including the acquisition of the Airport itself, if it believed the Airport would be "underutilized" and "used sparingly." Further, Airport users and tenants are reporting that aeronautical demand exists but is not being accommodated. There are indications that investors are interested in building new hangars if the city were willing to offer ground leases and that more and larger aircraft would be based at L45 if there were hangar facilities available.

Finally, there is a waiting list for aircraft hangar space at the Airport, and the Fixed Base Operator (FBO) seeks to accommodate more and larger aircraft if given the opportunity. The 2001-2005 NPIAS reported that the city development plans for the Airport exceeded \$1.2 million, a clear indication of its future potential. Based on the above, we find that the city's claim that the airport is underutilized is unfounded.

3. The highest and best use of the land is redevelopment for a mixed-use development and the closure is needed to improve this blighted and economically depressed area of the city.

The city contends that the highest and best use for the Airport land is as a mixed-use development with a combination of commercial, retail, and multi-family and single-family residential housing. The city argues that the Airport is a blight on the community that needs to be removed and that the Airport "stands in the way" of needed development that "the airport hinders development even in areas not on airport property." Finally, the city characterizes its

actions to close the Airport by stating that it has "simply reached the point where keeping L45 in existence is not in the best interest of the Bakersfield community."

FAA Response

The city has accepted an obligation to maintain the Airport as a public use airport. While the FAA recognizes that the city of Bakersfield is a growing community and attractive to commercial developers, the FAA does not accept the argument that the Airport "has perpetuated the blighted conditions that exist in the area" that justify its closure. Nor can the FAA accept the argument that some other proposed use of the property could generate more revenue.

The fact that developers have expressed an interest in developing an area of the city that includes the Airport, homes, and commercial retail shops, is simply an indication that the city currently values those development proposals over its Federal obligations. This change in the city's priorities does not eliminate its Federal obligations.

It is not the FAA's role to determine how the city can best promote economic development. However, airports that are permitted to grow create jobs and bring investment and tremendous benefits to a community. We note that the Airport is located in an area designated as an Employment Economic Incentive Program Area with the mission to enhance industrial development and employment. The Area is zoned for light manufacturing and heavy industrial use. The city has stated that the Airport is located within this Area. Therefore, not only has the city designated the Airport as an element in its economic development strategies, but the surrounding areas are presently compatible with airport operations. It now appears the city has changed its priority to change the zoning and develop the Area into commercial, retail, and residential housing use.

Nevertheless, the city's desire to redevelop the Area for nonaviation use does not constitute an airport benefit justifying a release and disposal. Consistent with Federal obligations, "the highest and best use of the land" is that it remain as an airport.

4. Safety concerns.

In support of its request for closure, the city cites support from Kern County and argues that for safety reasons, the Airport should be closed. Kern County owns and operates Meadows Field Airport (BFL), a commercial service airport serving Bakersfield with over 131,000 annual operations. The city and Kern County have publicly supported the closure of L45 because BFL and L45 are in close proximity to each other (approximately 11 miles) and there is a safety issue because the flight paths for the two airports intersect.

The city argues that the Airport poses a safety risk to traffic into BFL and specifically to commercial flights because L45 lies practically underneath the outer marker of BFL. The city adds that L45 traffic through the BFL ILS is a systemic problem that results in high levels of intersection traffic, including near misses.

FAA Response

The fact that Kern County, the owner of BFL, has expressed support for the closure of L45 is not justification for the closure. The city, not the County, is the sponsor of L45. The city, not the County, is the entity that has entered into the Federal grant agreements to keep L45 open.

The physical location and distance (11 miles) between the airports are not a basis for concluding there are safety concerns necessitating the closure of L45. The relatively close location of these two airports is not unusual and can be found at many other locations in the Nation's airport system. The FAA knew when it first funded the Airport in 1985 that it would complement and not hinder BFL. Airspace studies associated with both airports have not found their respective operations to be incompatible or unmanageable from an air traffic management and safety standpoint.

Moreover, the Federal Government has preempted the areas of airspace use and management, air traffic control, and aviation safety. Any safety issue involving the operation of in-flight aircraft in the vicinity of these two airports would be for the FAA to resolve, not Kern County or the city. In this case, both the FAA's Western-Pacific Region's Air Traffic Division and the Fresno Flight Standards District Office have the responsibility for air traffic and safety determinations for these two airports. In addition, all safety allegations contained in the city's justification for closure rely on the "personal opinion" of the director of BFL. There is no substantiated evidence of any safety concern with the operation of these two airports that has not been addressed successfully by the FAA.

The FAA investigated complaints several years ago alleging that L45 pilots were using unsafe flight practices that posed a risk for aircraft using BFL. FAA's Air Traffic Control (ATC) facility, which is located at BFL, controls approximately 2,400 square miles of airspace and provides ATC services, including instrument flight rules (IFR) and visual flight rules (VFR) approaches, to all local airports, specifically Shafter-Minter Field (MIT), Delano Municipal, Porterville Municipal, and L45, in addition to BFL. Following the FAA review, safety enhancements were established regarding flight procedures.

In summary, we view the steps taken by FAA's Western-Pacific Region to have addressed the safety concerns raised by the city. Therefore, we do not accept the city's argument that the Airport should be closed for safety reasons.

5. Other airports can absorb the displaced aeronautical users if L45 were to close.

In support of its request to close L45, the city takes the position that aircraft storage and operations could easily be absorbed by BFL and/or MIT and, therefore, closure of L45 would not negatively affect the national aviation system.

FAA Response

The availability of other airports is not a basis for the closure of an obligated airport. BFL, located on the opposite side of town from L45, is a commercial airport certificated by the FAA under 14 CFR Part 139, *Certification of Airports*, and is a primary service airport with scheduled airline service. Many aeronautical improvements have been made at BFL and many others are

planned, all designed to enhance the Airport's commercial service activities and accommodate its growing passenger traffic. This growth of commercial service at BFL includes service by three new airlines, the extension of the main runway (Runway 30L) to 7,700 feet, the development of a \$36 million terminal opened in February 2006, and the construction a new U.S. Customs facility.

Moreover, BFL is experiencing record-breaking growth in passenger traffic for 2006 with an increase of over 31 percent in the first quarter alone, as the airport prepares for over 400,000 annual passengers sometime in 2007. The Airport reports that it "is the fastest growing commercial air service airport in the Western region..." Based on this, BFL has and continues to evolve to better accommodate growing commercial operations, and as such, is not compatible with closing L45 and having its GA activities transferred to BFL.

FAA funds the development of reliever and general aviation airports in part to permit growth at commercial airports like BFL, enhancing airfield capacity, improving the Airport's primary purpose of reducing delay and accommodating more passengers, cargo, and commercial aircraft operations. BFL already has over 250 aircraft based on the airfield and is planning for over 260 based aircraft by 2009, without the closure of L45. To assume that BFL, which today accommodates over 131,000 operations annually, can accommodate all of the region's current and future general aviation needs is not an acceptable planning argument. Two airports, like BFL and L45, in the vicinity of the city result in a balanced distribution of air traffic between them and in doing so, create a more efficient use of facilities at each respective airport and capacity for future growth.

Reliever and general aviation airports have been developed in metropolitan areas such as Bakersfield to provide general aviation users an attractive alternative to commercial service airports. Large and growing metropolitan areas usually have a system of reliever and general aviation airports, one or more of which can accommodate corporate jet aircraft and others designed for use by smaller, propeller-driven aircraft. Relievers and general aviation airports have been very successful at relocating general aviation activity from commercial airports, such as BFL. The FAA strives to achieve the goal of having most U.S. residents have excellent access to air transportation - with 98 percent of the population living within 20 miles of a NPIAS airport like L45.

We also note that BFL has restrictions on general aviation operations. The airport has noise sensitive areas around it, particularly on its southeast quadrant and, as of June 2005, was engaged in conducting a 14 CFR Part 150 study (Airport Noise Compatibility Planning). The airport seeks to restrict training operations and to limit practice approaches in its airspace. This is inconsistent with transferring 30,000 operations from L45 to BFL.

L45 is located 3.5 miles south of the downtown area of Bakersfield and, as such, is a convenient location for aeronautical users who live or work in the city of Bakersfield. Claims that MIT can absorb L45 operations are also unfounded. MIT is located more than 25 miles away and is not a feasible or convenient replacement. There are no other public airports south of the city except for L45. Figure 3 below depicts this.

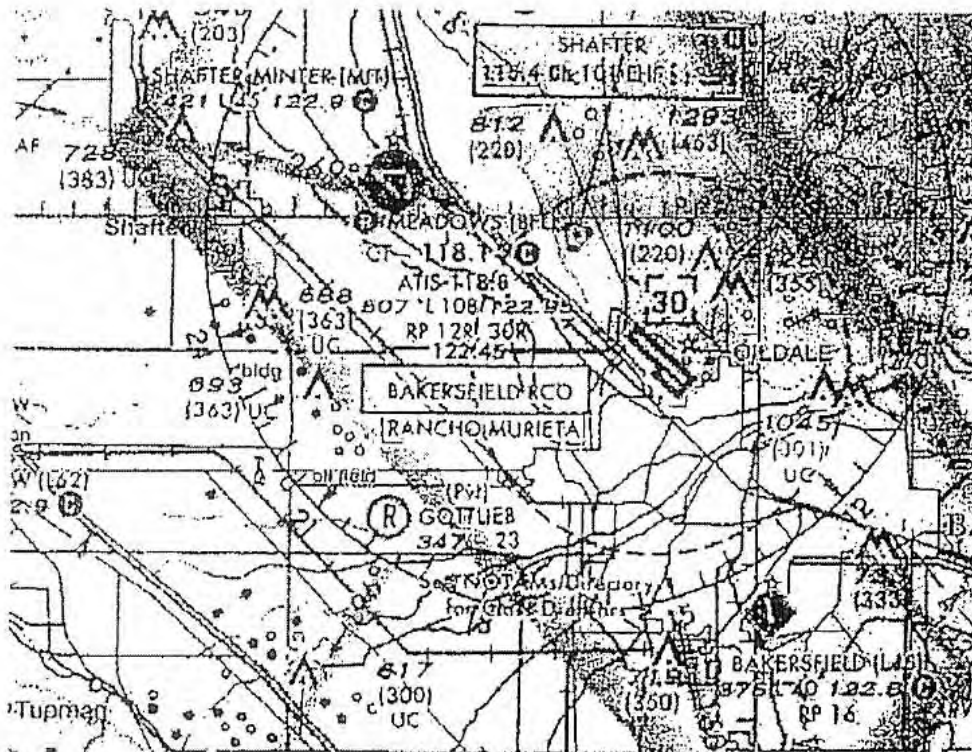


Figure 3 - View of Bakersfield and its airports as shown in the Los Angeles Sectional Aeronautical Chart.
Source: FAA

We conclude that all three airports: L45, BFL, and MIT, are necessary to serve the current and future needs of the Bakersfield area and the 700,000 people living in or near the Southern San Joaquin Valley. As the area grows, there will be an increasing, not a decreasing, need for aeronautical facilities to support the region. Therefore, the city's argument that other airports can absorb the displaced aeronautical users if L45 were to close is not supported. Further, the availability of other airports would not be a primary justification for the closure of a federally obligated airport.

F. Conclusion

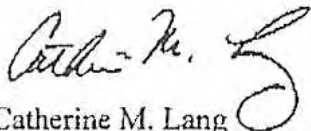
Based on the analysis above, the FAA finds no justification for the closure of L45. The FAA has invested more than \$10 million in public funds in land acquisition and airport improvements at L45. This Federal investment and the willingness of the city to develop the facility in recent years is decidedly inconsistent with the current request for closure. L45 is a critical airport in the NPIAS and plays an important role for aviation that extends well beyond the limits of the city. The Airport plays a critical role that benefits aviation in the regional, state, and the national aviation system. L45 serves at least 100 based aircraft and has the potential to serve more aeronautical users. It is currently in superior physical condition and if it were closed, the public would not realize the benefits of the Federal investment made in the Airport.

We conclude that there is no net benefit to be derived by civil aviation in closing the Airport. The city's own Web site, which can be found at <http://www.bakersfieldairport.us>, represents that the mission of the Airport is to provide a facility that is safe, FAA compliant, efficient, and

fiscally responsible to the public. Based on our review of the information in this case, we find that L45 is a safe facility that complies with applicable FAA requirements and is fiscally self-sustainable. L45 continues to serve the purpose for which it was created and its loss would be a substantial detriment to civil aviation interests of the region, state, or the national system of airports. Consequently, we must deny your request to close L45.

I trust that this information is helpful.

Sincerely,

A handwritten signature in cursive script, appearing to read "Catherine M. Lang". The signature is written in dark ink and is positioned above the printed name.

Catherine M. Lang
Acting Associate Administrator
for Airports