

**Wyoming Jet Center – FAA Part 13 Complaint**  
**Assertions and Preliminary Responses**  
**October 4, 2018**

On September 25<sup>th</sup> the Airport Board received a complaint filed by Wyoming Jet Center under an informal FAA process known as Part 13. Under Part 13, FAA will request a response from the Airport, investigate the allegations, and either dismiss the complaint, or if it finds a violation will require the Airport to take corrective action. Wyoming Jet Center's assertions and the Airport's preliminary responses are as follows:

1. *Wyoming Jet Center (WJC) has asserted the Airport violated Grant Assurance 23 – which prohibits granting an exclusive right to operate a Fixed Based Operator (FBO) on the Airport - by choosing to purchase the assets of Jackson Hole Aviation and exercising its right to itself provide FBO services, rather than issuing a Request for Proposal (RFP) for a second FBO.*
  - A. The Board has always known if it didn't exercise its "proprietary exclusive" right to operate the FBO on the Airport, it would be required to issue an RFP for a second FBO – *even though* it would result in ramp congestion and inefficient land use.
  - B. The Airport is clearly authorized to exercise its "proprietary exclusive" right. This is an exception to the "exclusive rights" prohibition and permits the Board to be the sole FBO operator.
  - C. WJC complains that because the Board decided to purchase FBO assets in November 2017, but has not yet done so, it cannot rely on the "proprietary rights" exception.
  - D. However, the Board cannot move forward on the purchase of the FBO due to the pending lawsuit filed by WJC in the Teton County District Court seeking to block the Board's use of bonds to finance the asset acquisition.
  - E. WJC cannot file a lawsuit to block the purchase, and then credibly complain that the Airport has not yet completed the purchase.
  - F. The only reason the Airport is not now operating the FBO on the Airport is that WJC filed a lawsuit seeking to block the Airport's use of bond financing to purchase FBO assets. The Board has bond financing in place - contingent on resolution of the WJC's lawsuit.
  - G. The configuration of new General Aviation (GA) facilities is different under the two scenarios: Board operation of the sole FBO, or two FBOs in the same limited space. It would therefore be unreasonable and unworkable for the Board to allow a second FBO to operate until the lawsuit is resolved.

2. *Wyoming Jet Center claims the Airport discriminated against piston-powered general aviation aircraft, by tearing down its Hangar #3 to make room for newer hangars.*
  - A. Hangar 3 was constructed in the early 1980s and was almost 40 years old. It was at a location which interfered with both the new fuel facility and new hangar development.
  - B. New 120-120 box hangars which are planned will actually contain more space for small GA aircraft, and allow for more ramp space for aircraft parking.
  - C. The Airport has requested that the new hangars be designed to be able to accommodate jet aircraft, which adds flexibility in that they can also accommodate smaller and piston aircraft.
  - D. When WJC proposed to operate a second FBO on the Airport, it proposed to use 120 x 120 box hangars that are similar. It is difficult to understand how WJC can credibly complain that these hangars discriminate against piston aircraft when it proposed to use similar sized hangars.
  - E. Design of these new replacement hangars will be slightly different depending on whether the Airport is allowed to purchase and operate the FBO. Therefore, the Airport's construction of these new replacement hangars is also being delayed because of the lawsuit brought by WJC.
3. *Wyoming Jet Center believes the Airport has improperly reported to FAA the amount of its "unrestricted" cash and investments.*
  - A. All Airport net revenues have been pledged to secure repayment of revenue bonds used to fund Terminal Building expansion.
  - B. Since issuance of those bonds, the Airport and its auditors have considered those revenues (and the cash in reserve funds derived therefrom) as being "restricted" since they are pledged to bond repayment. Accordingly, the Airport has reported that it has \$0 in "unrestricted" funds.
  - C. Immediately upon being shown a copy of WJC's Part 13 complaint, the Airport reviewed this with FAA and determined that it should consider such reserve funds as being unrestricted.
  - D. The Airport will update the reports with FAA.
  - E. Airport finances are audited each year, those audits are made public, and the Airport has in no way concealed its finances.

4. *Wyoming Jet Center feels the Airport is failing to collect a reasonable fee from the FBO at the Airport.*

- A. WJC correctly notes that the Airport “will maintain a fee and rental structure” to make the Airport as self-sustaining as possible.
- B. WJC then jumps to the conclusion that the Airport must “maximize” its revenues – by squeezing the last dollar out of each tenant – and for charging a percentage of all revenue tenants receive. There is no such FAA requirement.
- C. Prior to filing its complaint, WJC suggested that the Airport charge the FBO a percentage of revenues it receives from tie-down, parking service, and/or handling fees related to aircraft on the ramp. The Board reviewed this proposal and agreed. A 10% fee is therefore required by the FBO Operating Agreement signed in October 2017.
- D. Other charges paid by the FBO are fair and reasonable based on the recommendations of the Board’s appraiser and its independent consultants.

This is the fourth separate complaint which Wyoming Jet Center LLC has filed against the Airport since the fall of 2017, when the Airport determined to purchase the assets of Jackson Hole Aviation LLC and to itself provide FBO services. WJC’s three prior complaints were filed in the Teton County District Court. One District Court complaint was dismissed voluntarily when it was shown to be groundless, one was dismissed by the Court on summary judgment (it is now on appeal) and one is still pending.