

# **Areas for FCM/MAC to look at implementing better compliance with FAA/TSA policies and rules**

**Presentation to the FCAAC May 14, 2009  
by Zero Expansion**

**I would like to thank the FCAAC for giving us this time today to make a presentation. Thanks to Jeff Nawrocki of MAC for his cooperation.**

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**The focus of our presentation tonight is to stress that the FCAAC should concentrate more on better practices at the airport; make sure MAC adheres to their commitments in the agreement; and continue to work with MAC and with residents to ensure that FCM is a secure and safe facility**

## **1. FCM is not PE Compliant and should be.**

In a letter from MAC to Zero Expansion in response to questions about fuel storage, under and above ground storage and spill prevention, the MAC stated that they did not meet the regulatory threshold for SPCC requirements and that they've elected to prepare a SPCC plan as an environmental best management practice. They say the plan was developed in 1991 and has been updated several times. The most recent update occurring in Jan 2009. We question why they don't meet the regulatory threshold? What we do know is that it means more oversight and compliance. But, now there is a PE certification that MAC has not complied with.

**The EPA requires that facilities which have over 1,320 gallons of above ground storage tanks meet certain physical requirements as well as prepare a SPCC Plan certified by a registered professional engineer.**

**As of MAC's response on May 12<sup>th</sup>, the total petroleum stored in AST (Above ground) 2000 gallons. Total aboveground storage in mobile fuel trucks 14,800 gallons at FCM. (Underground is UST) MAC did not give me figures for UST.**

According to MAC's response there is no SPCC certification required when you are only creating a SPCC plan. But as of 2002, a PE certification is required if you submit a SPCC plan. MAC has submitted a plan but it has not been PE certified. MAC said nothing in their response to ZERO about being PE compliant, not SPCC compliant. They are two different certifications.

The MAC should employ personnel just for the purpose of ensuring that the agency is complying with the constantly changing certifications and rules that govern airports.

MAC states that tenants are responsible for their own containment systems, practices and procedures, but the MPCA ruled at the time of the discovery of oil spills at MSP that both MAC and tenants were culpable and responsible for clean up.

In November 2004, the Metropolitan Airports Commission entered into a stipulation agreement with the Minnesota Pollution Control Agency that resolved violations related to deicing chemicals and water contaminated with petroleum draining off the airport's property and into the Minnesota River, Snelling Lake and Mother Lake.

MAC paid a \$34,538 penalty and was required to partially fund an environmental study of the Lower Minnesota River at a cost of \$34,538.

## **2. The 2002 FAA Airport Incursion report cited three specific problems at FCM which the MAC has not adequately addressed:**

**1. Pilot Error is a Continued Problem-** The 2009 FOIA FAA Response that we requested on FCM's Safety Record shows that there is significant pilot error at FCM. This was also commented on in the FAA 2002 Runway Incursion Report.

### **2. FCM Open Access Gates not Compliant with FAA recommendations for unrestricted Access to unauthorized vehicles/people-**

In 2002 when the city and MAC were signing the Final Agreement, the city had no idea that the FCM had the worst incursion record of any airport in the nation, which included unrestricted access. Maybe if the city had known there would have been better leverage negotiating with MAC.

The recent Channel 5 investigation of MSP revealed that MAC is not complying with TSA security guidelines, allowing unauthorized vehicles where they should have no access. Such an occurrence happened at FCM in 2008, as reported in the FAA FOIA Response from the Runway Safety Office (Scott Neal was given this report). It would seem the bigger problem for MAC is not security, but saving money, which is why they said they cut back on security at MSP. Let's not forget the ticket buyers pay for TSA security in every ticket they purchase. With that in mind it's difficult to imagine that MAC takes security at FCM any more seriously than they do at MSP. Access gates at FCM FBOs are open all day and night.

Unauthorized vehicles can still gain access to the airport, there are still incursions related to aircraft vs. aircraft and aircraft vs. vehicles. After reading the FOIA response and reading the FAA 2002 Incursion Report it is easy to understand why pilots are routinely violating the voluntary curfew. The FAA stated that user error was a big problem at FCM.

**REPORT- page 4- "Every airport was advised to take an aggressive approach toward securing access to the airport operations and movement areas, since this appeared to be a common problem throughout the airports."**

**Report- FCM Trip Report Final- “There are no security gates in the airport business areas to prevent customer vehicles and or pedestrians from gaining access to the airport without proper authorization.”**

**Now gates have been installed but they are left open day and night.**

**Report –page 9- “ At other airports, security gates are left open after use, allowing unauthorized vehicles,( tugs, and field trucks,) to gain access to the airport movement areas.”**

**It is clear that this report is saying there should be gates and they should be locked, including gates at FBO’s. MAC and FBOs are ignoring the findings and the recommendations in this report.**

**3. Site Problems with the Tower-**The FAA Incursion Assessment Report from 2002 found site problems with the FCM control tower and recommended FCM install SSR, Surface Surveillance Radar and or move the Tower. The PDF Doc (Report) is on Zero Expansion's web site.

**MAC- In May of this year MAC responded that “the report does not specifically indicate that surface surveillance radar is recommended to be installed at FCM, nor is there a specific recommendation for the ATCT to be relocated. The report only identifies these as potential problems.**

ZERO- No that is an inaccurate. The Report identified them as ongoing and a current problem and did in fact recommend technological enhancements.

**MAC- In either case, it is the FAA who would be responsible for such airport modifications.**

ZERO-No, the FAA is not wholly responsible. It is the airport owner’s responsibility to react to recommendations and request grants from the FAA for these types of safety improvements, to be compliant with new rules, required certifications and new technologies.

**MAC wrote: The recommended enhancements that are the responsibility of the airport sponsor, and that MAC did complete years ago as recommended in the report, included control of access to the airport, and improved airport markings and signage.**

ZERO-No, there were other recommended enhancements that MAC ignored.

One, MAC has installed gates, but they are left open all day and night.

Pilot error is frequent and the report states that it is up to MAC to educate users on how to safely use the airport. Though MAC has addressed some signage issues, markings and lights

there are still incursions which could be solved by more user education. MAC has cherry picked the recommendations and the degree at which they have followed them.

**MAC-The report specifically indicates that the FAA has not provided technologies to airports with continued runway incursion problems, nor has the FAA provided small to medium airports with low-cost technologies to reduce runway incursions.**

ZERO- No, that is only part of what the report says. The FAA did provide technologies to 25 small to medium airports. But, this was not done according to need demonstrated by runway incursion problems. On this page the FAA qualifies that [they] must expedite the use of these technologies and should determine a process to certify new equipment...) to address these problems.

**Report –Page 15/13- Recommends that FCM add technological enhancements.**

**We've have found in MAC's response to this report that MAC has interpreted the recommendations to mean something different. or they have cherry picked and only responded back to us with only part of what the report stated.**

### **3. Crops planted on airport property represent attraction for birds and animals.**

According to FCM's manager, Monday May 11<sup>th</sup>, there are still areas within the airport that are planted with crops. This represents a potential for bird and small animal hazards and should be discontinued. This is another one of the FAA's concessions they make to use the land and appease the previous landowner. The previous owner probably made a deal with MAC to continue to use the land despite the fact that crops would be in close proximity to jet fuel and runoff. This is ethically wrong and a dangerous use of land either for the production of food and for the potential to attract birds or small animals, making the airport unsafe for its users.

### **4. FCAAC's Rick King lobbied Oberstar's office for the expansion.**

Our organization and those members of the council who have opposed the expansion, opposed the city lobbying for it, the chamber getting involved in trying to raise money for it or a proposal to market the airport, have all come out and expressed those opinions openly.

We think its quite another thing to lobby or support the expansion privately when you are serving in a public position, particularly if you serve as the chair of the FCAAC and were handed picked by the current MAYOR, whose actions related to support for obtaining funding for the expansion have been under suspicion since the beginning of his tenure, and for the change in direction the city took from one of neutrality to support of the expansion.

We think it's advisable that Mr. King be more honest about his pro expansion position so people can judge whether in fact he is a fair appointment to be Chair of the FCAAC or serve in any capacity in the city related to the airport without declaring and substantiating that he has no

conflicts of interests.

## **5- Issues of cost vs. risk continue to make MAC an unreliable neighbor and untrustworthy partner.**

MAC's airport management history is a mixed bag of environmental violations and cutting corners when it comes to chemical spills, noise, and security.

- **Jet fuel leaks in 2005 and subsequent fines for not reporting them and for clean up-**
- **Just recently in May of 2009 Channel 5's investigative Report found MAC was not following TSA security guidelines. MAC's spokesperson's response was that they were saving money.**
- **A class action suit filed by Minneapolis residents for sound mitigation that MAC promised was ultimately settled, resulting in dramatically less than MAC agreed to when they approved recommendations from the 1996 Community Stabilization Committee in their EIS.**

In 2007 Minneapolis, Richfield, Eagan and the Minneapolis Public Housing Authority filed a lawsuit against MAC. The cities' lawsuit won a key court victory when Judge Stephen Aldrich ruled in favor of the cities, finding the MAC violated the Minnesota Environmental Rights Act. Judge Aldrich said that the MAC had reneged on its obligation to limit noise pollution and violated the standards it set in exchange for approval of airport expansion.

<http://www.ci.mpls.mn.us/council/ward9/docs/june29.pdf>

**This is also the case with Eden Prairie. MAC lowered the standards it set in the Proposed Action in exchange for approval of the expansion...here is an example concerning three important issues, air quality, noise and the consideration of alternatives:**

- **Air quality impacts are up and exceed the 100 tones/yr of CO emissions based on Proposed Action.**
- **Traffic which was to be rerouted over the MN Wildlife Refuge is now routed over more populated areas.**
- **The Department of the Interior echoed what Eden Prairie residents have been saying that MAC did not consider alternatives.**

**(Final Decision)-**

**8- Zero Expansion still has not received an answer to whether groundwater samplings have been undertaken on or adjacent to FCM property since the last FC landfill testing in 1990's?**

- a. Have all existing wells been inspected recently?**

- b. **Since airports related toxics were found when the FC landfill was tested in the late 1990's, has MAC ever followed up to determine whether airport toxics have leached across 212 and whether they are still in the ground on airport and adjacent property?**

### **Our Recommendations:**

1. **We recommend that the MAC create an educational tool, perhaps something they can be downloaded off the internet so pilots can navigate the airport safer and abide by the curfew and other rules.**
2. **We recommend the FCAAC annually review the FAA Safety Record for FCM and use it to determine possible problems at the airport.**
3. **We recommend that if there are any existing tenant wells that they be tested for groundwater contamination.**
4. **MAC has shown that they are not a good role model for their tenants, who can't be expected to abide by security recommendations when MAC themselves does not. This is a risky precedent and it certainly calls into question MAC's self-aggrandizing public relations campaigns. MAC needs more legislative oversight.**

**That ends our presentation this evening.**