ORAL ARGUMENT NOT YET SCHEDULED

Nos. 25-1282, 25-1283, 25-1034, 25-1035 (Consolidated)

In the United States Court of Appeals for the D.C. Circuit

PALM BEACH COUNTY, a political division of the State of Florida,
TOWN OF PALM BEACH, a municipal corporation of the State of Florida, and
CITY OF WEST PALM BEACH, a municipal corporation of the State of Florida,

Petitioners,

v.

FEDERAL AVIATION ADMINISTRATION,

Respondent.

On Petitions for Review of Orders of the
Federal Aviation Administration

JOINT PETITIONERS' BRIEF

Steven L. Osit
sosit@kaplankirsch.com
Samantha R. Caravello
scaravello@kaplankirsch.com
Rebecca Glenn
rglenn@kaplankirsch.com
Kaplan Kirsch LLP
1675 Broadway, Suite 2300
Denver, Colorado 80202
303.825.7000

Counsel for Palm Beach County

Jeffrey L. Oldham
joldham@jw.com
Jackson Walker LLP
100 Congress Ave.,
Suite 1100
Austin, Texas 78701
512.236.2000

Justin V. Lee
jlee@jw.com
Cody A. Martinez
cmartinez@jw.com
Jackson Walker LLP
2323 Ross Ave.,
Suite 600
Dallas, Texas 75201
214.953.6000

Counsel for Town of Palm Beach, Florida and City of West Palm Beach, Florida

CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES

Parties and Amici. Petitioner in Case Nos. 25-1282 and 25-1034 is Palm Beach County, Florida (the "County"). Petitioners in Case Nos. 25-1283 and 25-1035 are the Town of Palm Beach, Florida (the "Town"), and the City of West Palm Beach, Florida (the "City"). Respondent is the Federal Aviation Administration ("FAA").

Rulings under Review. These Petitions for Review concern twenty-four orders (collectively, the "Orders") issued by the FAA that collectively prohibit aircraft from overflying the Mar-a-Lago Club owned by the President and route all aircraft arriving at and departing from the Palm Beach International Airport* (the "Airport") away from Mar-a-Lago and over other areas. The Orders under review are:

1. Notice to Airmen No. FDC 5/2809 (issued Oct. 18, 2025), Administrative Record ("AR") 00333;

2. Palm Beach Airport Traffic Control Tower, Letter to Airmen LTA-PBI-12, AR00637;

---

* Pursuant to Chapter 2026-15, Laws of Florida 2026, the Airport will soon be renamed the "President Donald J. Trump International Airport."

3. Palm Beach Airport Traffic Control Tower, Letter to Airmen LTA-PBI-13, AR00532;

4. Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments, 90 Fed. Reg. 57,353 (Dec. 11, 2025), as it pertains to the procedures at West Palm Beach, FL, PBI, AR00533-34;

5. Departure Procedure AHABB ONE (OBSTACLE) (RNAV), effective January 22, 2026, AR00783;

6. Departure Procedure MIXAE FOUR (RNAV), effective January 22, 2026, AR00926;

7. Departure Procedure OLAKE THREE (RNAV), effective January 22, 2026, AR01047-48;

8. Departure Procedure PALM BEACH FOUR, effective January 22, 2026, AR01126;

9. Departure Procedure SLIDZ THREE (RNAV), effective January 22, 2026, AR01268-69;

10. Departure Procedure TBIRD SEVEN (RNAV), effective January 22, 2026, AR01695-97;

11. Departure Procedure WELLY FOUR (RNAV), effective January 22, 2026, AR01796;

12. Instrument Approach Procedure ILS OR LOC RWY 10L, effective January 22, 2026, AR01902;

13. Instrument Approach Procedure ILS OR LOC RWY 28R, effective January 22, 2026, AR01984;

14. Instrument Approach Procedure RNAV (RNP) W RWY 28R, effective January 22, 2026, AR01990;

15. Instrument Approach Procedure RNAV (RNP) Z RWY 10L, effective January 22, 2026, AR01986;

16. Instrument Approach Procedure RNAV (RNP) Z RWY 14, effective January 22, 2026, AR01982;

17. Instrument Approach Procedure RNAV (RNP) Z RWY 28R, effective January 22, 2026, AR01983;

18. Instrument Approach Procedure RNAV (RNP) Z RWY 32, effective January 22, 2026, AR01987;

19. Instrument Approach Procedure RNAV (GPS) X RWY 28R, effective January 22, 2026, AR01989;

20. Instrument Approach Procedure RNAV (GPS) Y RWY 10L, effective January 22, 2026, AR01903;

21. Instrument Approach Procedure RNAV (GPS) Y RWY 14, effective January 22, 2026, AR01988;

22. Instrument Approach Procedure RNAV (GPS) Y RWY 28R, effective January 22, 2026, AR01985;

23. Instrument Approach Procedure RNAV (GPS) Y RWY 32, effective January 22, 2026, AR01981; and

24. IFR Takeoff Minimums, (Obstacle) Departure Procedures, and Diverse Vector Area (Radar Vectors), AR01973-80, as it pertains to the procedures at the Airport.

Related Cases. The Court consolidated the above-captioned cases through its orders dated December 15, 2025, February 17, 2026, and February 18, 2026. To counsel's knowledge, there are no other cases pending before the FAA, this Court, or any other court that involve substantially the same issues.

TABLE OF CONTENTS

CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES i

TABLE OF CONTENTS v

TABLE OF AUTHORITIES viii

GLOSSARY xiii

JURISDICTIONAL STATEMENT 1

STATEMENT OF ISSUES 1

STATEMENT REGARDING ADDENDUM OF STATUTES AND REGULATIONS 2

STATEMENT OF THE CASE 3

A. The FAA previously established TFRs only when the President was visiting Mar-a-Lago. 4

B. The Secret Service requests permanent, 24/7/365 flight restrictions over Mar-a-Lago. 5

C. The FAA acknowledges that the requested flight restrictions would significantly impact the Airport's operations and require noise and environmental studies. 6

D. The FAA develops a plan to fast-track the implementation of permanent flight restrictions over Mar-a-Lago. 8

E. The FAA designates airspace over Mar-a-Lago as "national defense airspace" and modifies Airport procedures 8

F. The FAA's unannounced action causes public uproar over aircraft noise and its effects on the community 10

G. The FAA hurriedly redesigns the Airport's approach and departure procedures to avoid the National Defense Airspace through belated and inadequate environmental review. 14

SUMMARY OF THE ARGUMENT 18

STANDING 20

A. The Orders have injured the County. 20

B. The Orders have injured the City and the Town. 25

C. Petitioners' injuries were caused by the Orders and are redressable by the Court. 28

ARGUMENT 29

I. THE FAA'S ESTABLISHMENT OF THE NATIONAL DEFENSE AIRSPACE OVER MAR-A-LAGO VIOLATES THE APA AND APPLICABLE ENVIRONMENTAL REVIEW STATUTES 29

A. The FAA failed to follow mandatory notice-and-comment procedures. 29

B. The National Defense Airspace is inconsistent with statutory criteria and not the product of reasoned decisionmaking. 32

C. The FAA failed to conduct any environmental review. 39

II. THE FAA'S MODIFICATION OF THE AIRPORT'S DEPARTURE AND ARRIVAL PROCEDURES SOLELY TO AVOID OVERFLIGHT OF MAR-A-LAGO VIOLATES THE APA AND APPLICABLE ENVIRONMENTAL REVIEW STATUTES 45

A. There is no "reasoned basis" for the Redesigned Procedures. 45

B. The FAA arbitrarily and capriciously applied a categorical exclusion to avoid more detailed NEPA review of the Redesigned Procedures. 46

C. The FAA failed to consider the impact of the Redesigned Procedures on historic properties under the NHPA. 56

D. The FAA failed to comply with Section 4(f) and failed to consider the impact of the Redesigned Procedures on park and recreation areas. 65

III. VACATUR IS THE APPROPRIATE REMEDY 71

CONCLUSION 74

CERTIFICATE OF COMPLIANCE 76

TABLE OF AUTHORITIES

Cases **Page**

Allied-Signal, Inc. v. U.S. Nuclear Regul. Comm'n,
988 F.2d 146 (D.C. Cir. 1993) 71

Allina Health Servs. v. Sebelius,
746 F.3d 1102 (D.C. Cir. 2014) 71

Allison v. Dep't of Transp.,
908 F.2d 1024 (D.C. Cir. 1990) 26

AMB Onsite Servs.-West, Inc. v. NLRB,
849 F.3d 1137 (D.C. Cir. 2017) 36

Am. Bird Conservancy, Inc. v. FCC,
516 F.3d 1027 (D.C. Cir. 2008) 53

Am. Great Lakes Ports Ass'n v. Schultz,
962 F.3d 510 (D.C. Cir. 2020) 71

Backcountry Against Dumps v. FAA,
77 F.4th 1260 (9th Cir. 2023) 32

Balt. Gas & Elec. Co. v. Nat. Res. Def. Council,
462 U.S. 87 (1983) 39

BFI Waste Sys. of N. Am., Inc. v. FAA,
293 F.3d 527 (D.C. Cir. 2002) 31

Ctr. for Biological Diversity v. Salazar,
706 F.3d 1085 (9th Cir. 2013) 42

Ctr. for Biological Diversity v. Zeldin,
171 F.4th 356 (D.C. Cir. 2026) 26

Cincinnati Bell Tel. Co. v. FCC,
69 F.3d 752 (6th Cir. 1995) 38

Citizens Against Rails-to-Trails v. Surface Transp. Bd.,
267 F.3d 1144 (D.C. Cir. 2001) 40

City of Alexandria v. Slater,
198 F.3d 862 (D.C. Cir. 1999) 66

City of Anaheim, Cal. v. FERC,
558 F.3d 521 (D.C. Cir. 2009) 32

City of Billings v. Transp. Sec. Admin.,
153 F.4th 46 (D.C. Cir. 2025) 30

City of Dania Beach v. FAA,
485 F.3d 1181 (D.C. Cir. 2007) 20, 24, 25, 26

City of Grapevine v. Dep't of Transp.,
17 F.3d 1502 (D.C. Cir. 1994) 66

City of Las Vegas v. FAA,
570 F.3d 1109 (9th Cir. 2009) 23, 27

City of Los Angeles v. Dickson,
No. 19-71581, 2021 WL 2850586 (9th Cir. July 8, 2021) 60, 69

City of Olmsted Falls v. FAA,
292 F.3d 261 (D.C. Cir. 2002) 20

City of Phoenix v. Huerta,
869 F.3d 963 (D.C. Cir. 2017) 39, 46, 53, 54, 60, 68

City of Sausalito v. O'Neill,
386 F.3d 1186, 1197 (9th Cir. 2004) 24

City of Waukesha v. EPA,
320 F.3d 228 (D.C. Cir. 2003) 25

Clark Cnty. v. FAA,
522 F.3d 437 (D.C. Cir. 2008) 65

Clean Wis. v. EPA,
964 F.3d 1145 (D.C. Cir. 2020) 20

Cnty. of Rockland v. FAA,
335 F. App'x 52 (D.C. Cir. 2009) 66

Dep't of Homeland Sec. v. Regents of the Univ. of Cal.,
591 U.S. 1 (2020) 33

Dep't of Transp. v. Public Citizen,
541 U.S. 752 (2004) 42

D.C. Fed'n of Civic Ass'ns v. Volpe,
459 F.2d 1231 (D.C. Cir. 1971) 66

Eagle Cnty. v. Surface Transp. Bd.,
82 F.4th 1152 (D.C. Cir. 2023) 57

Encino Motorcars, LLC v. Navarro,
579 U.S. 211 (2016) 30, 35

Env't Def. Fund v. FERC,
2 F.4th 953 (D.C. Cir. 2021) 73

Jud. Watch, Inc. v. U.S. Dep't of Homeland Sec.,
895 F.3d 770 (D.C. Cir. 2018) 33

Marin Audubon Soc'y v. FAA,
121 F.4th 902 (D.C. Cir. 2024) 55, 56

Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.,
463 U.S. 29 (1983) 33, 35, 36

Narragansett Indian Tribe v. McMaster,
No. 24-5193, 2026 WL 1450020 (D.C. Cir. May 22, 2026) 26

Nat'l Env't Dev. Ass'n's Clean Air Project v. EPA,
752 F.3d 999 (D.C. Cir. 2014) 31

Nat'l Trust for Historic Pres. in the U.S. v. Nat'l Park Serv.,
Civil Case No. 25-3116 (D.D.C. Apr. 16, 2026) 35

New Jersey v. EPA, 989 F.3d 1038 (D.C. Cir. 2021) 20

N.J. Conservation Found. v. FERC,
111 F.4th 42 (D.C. Cir. 2024) 72

North Carolina v. FAA,
957 F.2d 1125 (4th Cir. 1992) 30

Ohio v. EPA,
603 U.S. 279 (2024) 39

Penn Cent. Transp. Co. v. City of New York,
438 U.S. 104 (1978) 56

Pueblo of Sandia v. United States,
50 F.3d 856 (10th Cir. 1995) 58

Spirit Airlines, Inc. v. U.S. Dep't of Transp.,
997 F.3d 1247 (D.C. Cir. 2021) 45

Solondz v. FAA,
141 F.4th 268 (D.C. Cir. 2025) 34

Standing Rock Sioux Tribe v. U.S. Army Corps of Eng'rs,
985 F.3d 1032 (D.C. Cir. 2021) 72

Vill. of Bensenville v. FAA,
376 F.3d 1114 (D.C. Cir. 2004) 33

Wilderness Watch v. Mainella,
375 F.3d 1085 (11th Cir. 2004) 49

Statutes

5 U.S.C. § 553 29

42 U.S.C. § 4336e 40

49 U.S.C. § 303 ..... 44, 66

49 U.S.C. § 40103 ..... 29, 32, 33, 34, 36, 41

49 U.S.C. § 46110 1

54 U.S.C. § 306108 ..... 44, 56

Regulations

14 C.F.R. § 91.141 4

23 C.F.R. § 774.3 ..... 67, 70

36 C.F.R. § 800.2 ..... 57, 60

36 C.F.R. § 800.3 ..... 58, 59

36 C.F.R. § 800.4 ..... 56, 58, 59, 61, 62

36 C.F.R. § 800.5 ..... 56, 58, 61

36 C.F.R. § 800.6 56

36 C.F.R. § 800.16 61

Establishment of Prohibited Area P-75; New York, NY,
91 Fed. Reg. 23,187 (Apr. 30, 2026) 6, 31

GLOSSARY

Airport	Palm Beach International Airport (PBI), soon to be renamed the President Donald J. Trump International Airport (DJT)
APA	Administrative Procedure Act
City	Petitioner City of West Palm Beach
County	Petitioner Palm Beach County
FAA	Federal Aviation Administration
LTA	Letter to Airmen
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NOTAM	Notice to Airmen
National Defense Airspace	The "national defense airspace" designated by the FAA through Notice to Airmen No. FDC 5/2809 (issued Oct. 18, 2025)
Redesigned Procedures	Those arrival and departure procedures promulgated by the FAA on January 22, 2026, which permanently route aircraft away from Mar-a-Lago
SHPO	State Historic Preservation Officer
TFR	Temporary Flight Restriction
Town	Petitioner Town of Palm Beach

JURISDICTIONAL STATEMENT

This Court has jurisdiction over the Petitions for Review under 49 U.S.C. § 46110(a). Each of the challenged orders is a "final order" within the meaning of Section 46110(a). Petitioners filed their first Petitions for Review on December 12, 2025, which is within the 60-day period prescribed by Section 46110(a) for the Notice to Airmen issued October 18, 2025; the Letters to Airmen dated October 15, 2025 and December 10, 2025; and the December 11, 2025 Federal Register Notice.

Petitioners filed their second Petitions for Review on February 12, 2026 and February 13, 2026, which is within the 60-day period prescribed by Section 46110(a) for the Departure Procedures and Instrument Approach Procedures issued by the FAA on January 22, 2026.

STATEMENT OF ISSUES

1. Whether the FAA's establishment of the National Defense Airspace over the Mar-a-Lago Club owned by the President, at the request of the Secret Service, was arbitrary and capricious or otherwise not in accordance with law where the FAA did not comply with notice-and-comment procedures or articulate a reasoned explanation for

excluding all aircraft at all times, knowingly disregarded its obligations under the National Environmental Policy Act ("NEPA"), the National Historic Preservation Act ("NHPA"), and Section 4(f) of the Department of Transportation Act, and otherwise erred.

2. Whether the FAA's promulgation of the Redesigned Procedures at the Airport was arbitrary and capricious or otherwise not in accordance with law where the only reason to modify long-standing flight paths was to avoid the unlawfully established National Defense Airspace, and the FAA improperly applied a categorical exclusion to avoid more detailed environmental review required by NEPA, failed to engage in local consultations required under the NHPA and Section 4(f), and otherwise erred.

STATEMENT REGARDING ADDENDUM OF STATUTES AND REGULATIONS

Pursuant to Circuit Rule 28(a)(5), pertinent statutes, regulations, and agency orders are set forth in a separate addendum to this brief.

STATEMENT OF THE CASE

These consolidated Petitions for Review challenge two sets of orders (collectively, the "Orders") issued by the FAA that altered long-standing flight procedures at the Airport. The first established the National Defense Airspace over Mar-a-Lago, prohibiting all flights at all times, and established ad hoc procedures to route aircraft away from Mar-a-Lago.[1] The second implemented redesigned arrival and departure procedures at the Airport to permanently reroute aircraft away from Mar-a-Lago and over residential communities and other noise-sensitive areas that were previously only occasionally exposed to aircraft noise.[2]

---

[1] The National Defense Airspace was established through Notice to Airmen No. FDC 5/2809. AR0033. The FAA established ad hoc procedures through the Letters to Airmen LTA-PBI-12, AR00637, and LTA-PBI-13, AR00532.

[2] The redesigned arrival and departure procedures, collectively referred to as the "Redesigned Procedures," are AHABB ONE, AR00783; MIXAE FOUR, AR00926; OLAKE THREE, AR01047-48; PALM BEACH FOUR, AR01126; SLIDZ THREE, AR01268-69; TBIRD SEVEN, AR01695-97; WELLY FOUR, AR01796; ILS OR LOC RWY 10L, AR01902; ILS OR LOC RWY 28R, AR01984; RNAV (RNP) W RWY 28R, AR01990; RNAV (RNP) Z RWY 10L, AR01986; RNAV (RNP) Z RWY 14, AR01982; RNAV (RNP) Z RWY 28R, AR01983; RNAV (RNP) Z RWY 32, AR01987; RNAV (GPS) X RWY 28R, AR01989; RNAV (GPS) Y RWY 10L, AR01903; RNAV

A. The FAA previously established TFRs only when the President was visiting Mar-a-Lago.

The FAA routinely establishes Temporary Flight Restrictions ("TFRs") over locations visited by the President. 14 C.F.R. § 91.141.

During President Trump's first term, and until October 20, 2025, the FAA only imposed a TFR around Mar-a-Lago when the President was there.[3] AR00057. Because Mar-a-Lago is only 2.1 nautical miles east of the Airport and almost directly in line with the Airport's primary runway, AR00135, such TFRs were designed to preserve the Airport's operational efficiency. Aircraft operations were generally prohibited within ten nautical miles of Mar-a-Lago, but commercial airlines were exempt because they operate in strict accordance with the Transportation Security Administration's security programs. AR00015. Other aircraft (often referred to as "general aviation" aircraft) could be

---

(GPS) Y RWY 14, AR01988; RNAV (GPS) Y RWY 28R, AR01985; RNAV (GPS) Y RWY 32, AR01981; and IFR Takeoff Minimums, (Obstacle) Departure Procedures, and Diverse Vector Area (Radar Vectors), AR01973-80, as it pertains to the procedures at the Airport.

[3] When the President was not at Mar-a-Lago, the FAA only prohibited overflights by unmanned aircraft systems, *i.e.*, drones. AR00057.

screened by the Transportation Security Administration prior to departure from the Airport, or first land at one of several designated "gateway" airports for pre-screening before continuing to the Airport. AR00016. The FAA assigned headings to all departing aircraft so as to avoid routing aircraft within one nautical mile of Mar-a-Lago as much as possible, but otherwise coordinated with the Secret Service when the FAA determined it was necessary to overfly Mar-a-Lago. AR00050-53.

Petitioners do not challenge those TFRs, which remain in effect when the President visits Mar-a-Lago.

B. The Secret Service requests permanent, 24/7/365 flight restrictions over Mar-a-Lago.

On September 10, 2025, the Secret Service requested that the FAA establish a "permanent fixed flight restriction area[]" extending one nautical mile around Mar-a-Lago, from the surface to 1,000 feet above ground level.[4] AR00649. The requested "24/7/365" restriction, which

[4] This initial request was unsigned. AR00649. The Secret Service sent an identical signed letter six days later. AR00178. Notably, the same letter requested a similar restriction over the President's New York City

would apply to all aircraft and "remain active irrespective of the President's presence at Mar-a-Lago," was a marked deviation from the FAA's past practice for presidential security. AR00230, 00345.

To justify its request, the Secret Service cited "adverse threat intelligence," its "ongoing protective mission," and the "ability to mitigate the persistent risks posed by unauthorized aircraft and unmanned aircraft systems," AR00649, but provided no specifics. The Secret Service offered to "provide additional operational justification [and] coordinate on technical details," *id.*, but there is no record evidence that the FAA sought, or the Secret Service provided, additional information. *Id.*

C. The FAA acknowledges that the requested flight restrictions would significantly impact the Airport's operations and require noise and environmental studies.

Upon receiving the Secret Service's letter, the FAA began assessing the "operational impacts" of the requested restrictions on the Airport. *E.g.*, AR00180-83, 00547-52. FAA staff quickly noted the requested

---

residence. *Id.* The FAA has initiated a formal rulemaking to establish that restriction. *See* 91 Fed. Reg. 23,187 (Apr. 30, 2026).

restriction would "severely limit commercial operations at PBI"; "creat[e] severe safety, capacity, and efficiency impacts that cannot be mitigated in the near term"; require two-thirds of the Airport's air traffic to utilize alternate runways; "significantly impact general aviation operations"; and "require redesign" of flight procedures, including "[n]ew procedures with immediate turns" and non-standard climb gradients. AR00180-83.

Additionally, the FAA immediately recognized that the requisite changes to flight procedures would alter flight paths and increase aircraft noise in surrounding areas. AR00470 ("Noise/Environmental studies would likely need to occur if we procedurally change these flight paths to avoid overflight of Mar-A-Lago."); *see also* AR00183 (identifying "noise," "community impact," and "airspace congestion risks").

In an effort to avoid these impacts, the FAA's Chief Operating Officer recommended that the Administrator either "adopt a commercial traffic exemption" to any restriction over Mar-a-Lago or significantly reduce the restriction's physical dimensions. AR00180-83.

D. The FAA develops a plan to fast-track the implementation of permanent flight restrictions over Mar-a-Lago.

The Chief Operating Officer's recommendations were apparently disregarded. On October 10, 2025, the FAA formally responded to the Secret Service's request. AR00224-28. The FAA indicated it would promptly establish a no-fly zone (one nautical mile in radius and up to 2,000 feet above ground level)[5] over Mar-a-Lago, and issue headings to keep aircraft away from Mar-a-Lago until formal arrival and departure procedures could be developed. AR00224, 00608.

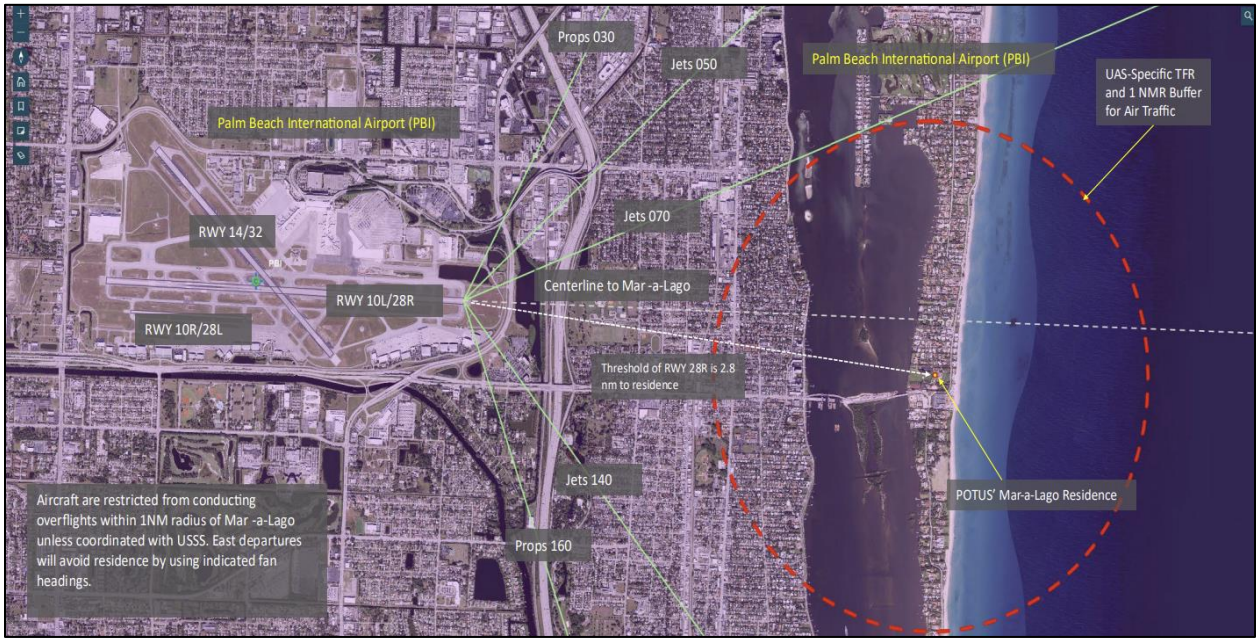
E. The FAA designates airspace over Mar-a-Lago as "national defense airspace" and modifies Airport procedures.

On October 18, 2025, the FAA implemented phase one of its plan by issuing Notice to Airmen ("NOTAM") No. FDC 5/2809, through which it classified the airspace within one nautical mile of Mar-a-Lago up to 2,000 feet as "national defense airspace" (the "National Defense Airspace") and restricted all flight operations therein, effective October 20, 2025. *See* AR00326-29. The FAA also supplanted the Airport's

---

[5] The Administrative Record does not indicate why this altitude was increased to 2,000 feet when the Secret Service requested only 1,000 feet.

established arrival and departure procedures by issuing Letter to Airmen LTA-PBI-12, requiring arriving and departing aircraft to maintain headings that avoided the National Defense Airspace.[6] *See* AR00637. These new headings vectored all aircraft around the National Defense Airspace, as depicted below:



AR00647. Despite the FAA's earlier acknowledgement that such changes would require environmental review and internal safety waivers "with

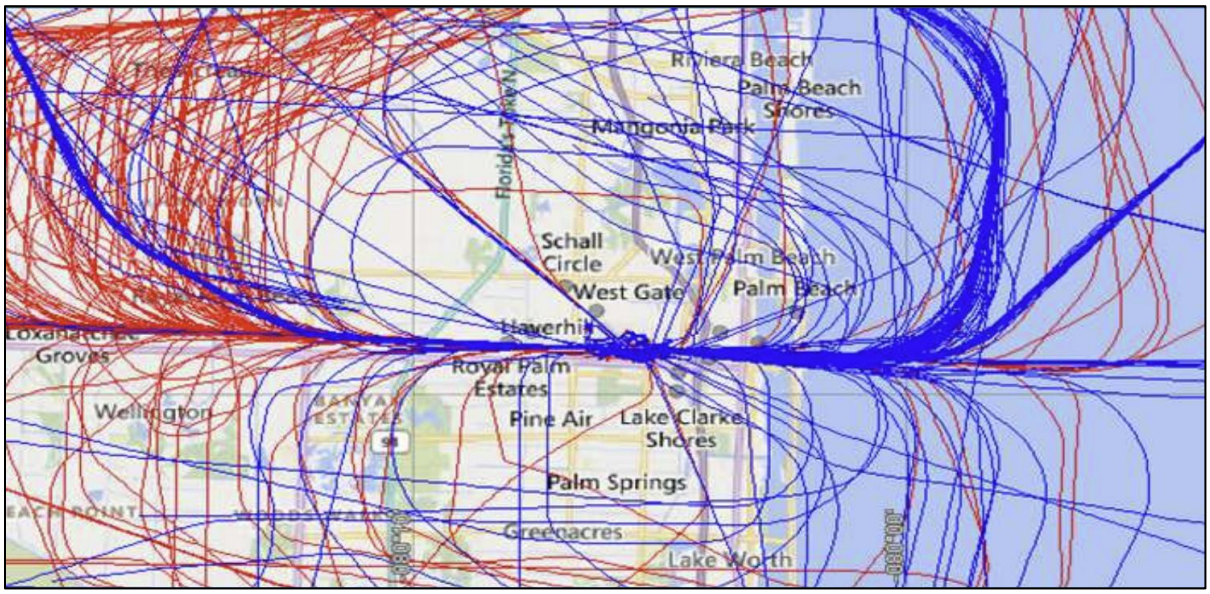
---

[6] LTA-PBI-12 initially prohibited all departures from Runway 10R, the Airport's shorter runway used primarily by general aviation aircraft. AR00637. The FAA later removed that restriction through the issuance of LTA-PBI-13. See AR00751-52.

no guarantee of approval," AR00181-83, the FAA did not conduct any environmental review or document any internal safety waivers prior to establishing the National Defense Airspace or amending the Airport's approach and departure procedures through the LTA.

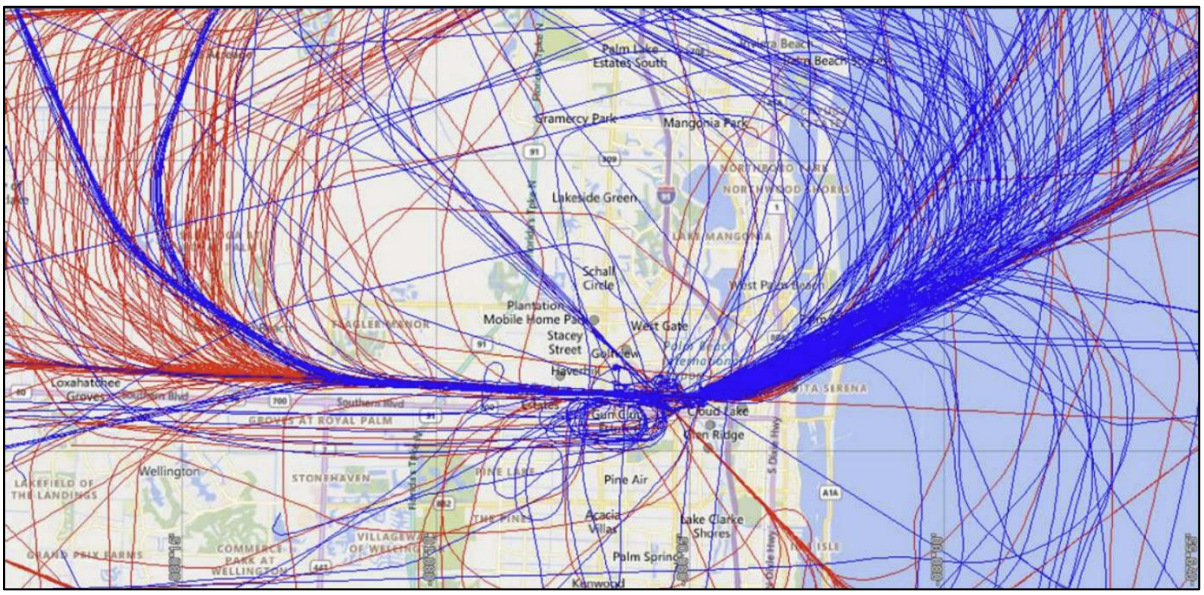
F. The FAA's unannounced action causes public uproar over aircraft noise and its effects on the community.

Overnight, the flight paths over the Town and City changed drastically. For years, the Airport's departure procedures had required aircraft departing on Runway 10L to fly straight out to the ocean before turning on course, as depicted below:



AR00477 (departures in blue; arrivals in red). The County had invested considerable resources to manage noise impacts along these corridors, including purchasing and insulating homes. Beebe Decl. ¶ 22.

The FAA's changes, however, diverted and noticeably concentrated flights to the northeast of the Airport:



AR00478.

Less than one month after the flight restrictions went into effect, the FAA noted their "impact[] to airport operations" and "airport development plans," and—specifically—how they "change[d] . . . the noise footprint experienced by local residents." AR00345. In particular, the agency stated the LTA procedures, as well as the "upcoming changes to

instrument flight procedures," "route[d] and concentrate[d] air traffic over noise sensitive areas that previously experienced this level of noise only occasionally." AR00346; *see also* 00531 (changes "will shift noise to new communities permanently"). Because the FAA implemented these changes without *any* engagement with the County or surrounding communities, *see* AR00531 (noting no stakeholder engagement), the public outcry was severe and immediate.

Just four days after the changes went into effect, the Town's mayor issued a formal complaint to the FAA outlining the "significant and measurable" disruption to her community due to "[e]xcessive" noise caused by the creation of "new flight paths directly over residential neighborhoods," and resultant adverse effects on "quality of life, public health, and property values." AR00342.

The City's mayor also decried the adverse effects on "community livability and economic vitality," including the "potential structural vibrations" that its historic properties were experiencing from the now-routine low-altitude overflights. Exhibit 1. The County and United

States congressional representatives also lodged complaints with the FAA regarding the changes. AR00347, 00717-21, 00735.

The confusion and concern expressed by elected representatives mirrored the sentiments of their constituents, who were outraged by the FAA's unannounced actions. Noise complaints spiked dramatically, and the County's "community noise outreach meetings" became more heavily attended "than anytime [sic] in their history." AR00711.

At the November 6, 2025 meeting of the Citizens Committee on Airport Noise, residents reported: being disturbed by aircraft noise as early as 6:00 a.m. and as late as 11:00 p.m.; an inability to converse outside due to aircraft noise; soot covering their properties; the smell of jet fuel permeating their homes; potential damage to the architectural features of historic homes; and concern over the long-term health impacts attributable to noise and air pollution caused by the overflights. PBCTV, *Citizens Committee on Airport Noise, YouTube*, 33:45, 46:11, 1:03:53 (Nov. 6, 2025), https://www.youtube.com/live/onTKIGTE57Y.

G. The FAA hurriedly redesigns the Airport's approach and departure procedures to avoid the National Defense Airspace through belated and inadequate environmental review.

At the same time, the FAA hurriedly began developing the Redesigned Procedures to permanently route aircraft away from the National Defense Airspace. This was no small undertaking. The flight restrictions "impact[ed] approximately 17 instrument flight procedures" at the Airport, and required what the FAA described as a complete "redesign" of the Airport's airspace. *E.g.*, AR00346, 00338, 00541-43, 00582, 00608, 00654, 00672, 00744. In fact, the FAA not only redesigned six departure and twelve approach procedures, it established one *new* departure procedure and five "diverse vector areas." *Supra* at 3 n.2. This effort was further complicated by the FAA's desire to expedite the development of the Redesigned Procedures. *E.g.*, AR00590, 00605, 00669 (describing "short notice" to implement the new procedures, being "under a tight timeline," and a need for "urgency").

At first, the FAA sought to avoid *any* environmental review of the Redesigned Procedures, due to its purported "lack of . . . decision making authority in implementing the[] changes" and its alleged lack of

"substantial control or responsibility."[7] AR00347, 01991. The FAA continued equivocating over NEPA's applicability until late November 2025. *See* AR00525 (noting that "NEPA action may/may not be required"), 00724 (noting that FAA staff had not "gotten a firm answer one way or the other" regarding NEPA). By December 2025, the FAA internally admitted that the Redesigned Procedures "would breach the accepted noise significance threshold" and that "significant noise is unavoidable . . . ." AR00741. Thus, the FAA sought to "come up with a sound explanation in the NEPA review that [would] help quash any noise complaints, legitimate tho [sic] they may be." *Id.*

First, the FAA commissioned the MITRE Corporation to conduct a noise study to ascertain whether the Redesigned Procedures would cause a "significant" increase in noise. *See* AR00754-55, 00756-57. The FAA received the final study on January 20, 2026—*two days* before the

---

[7] Fearing that the FAA intended to forego appropriate environmental review of the Redesigned Procedures, the County submitted a letter urging the agency to consider the impacts of the Redesigned Procedures. AR00717-21, 00746. The FAA ignored the County's comments, directing it to the Secret Service for "more information." *E.g.,* Exhibit 2.

agency's planned publication of the Redesigned Procedures. AR02054, *see* 02028-47. That study purported to compare "baseline" aircraft noise levels with the noise levels that would be generated by the Redesigned Procedures (as modeled by MITRE). But despite claiming to have calculated the baseline from sixty randomly selected days "between September 2024 and August 2025," when no flight restrictions were in place, MITRE included data from a day when flight restrictions *were* in place. AR02034-35. Based on that analysis, the report concluded that large swaths of the City and Town would be exposed to "reportable" noise increases, but none rose to "significant" levels. AR02032, 02042-43.

Second, on January 15, 2026, one week before the publication of the Redesigned Procedures, the FAA sent a letter to Florida's deputy State Historic Preservation Officer ("SHPO"), purportedly to "initiate consultation under Section 106 of the NHPA."[8] AR02049-52, 02057. That letter made clear, however, that the FAA had already concluded that the

[8] The FAA sent the letter to the deputy SHPO because the acting SHPO was on personal leave. *See* AR02057-58.

Redesigned Procedures would have "No Adverse Effect" on historic properties and requested that the SHPO summarily approve that decision after the fact and on an "expedited" basis. *See* AR02049-52, 02057. On January 21, 2026, just six days later, the deputy SHPO sent a letter concurring with the FAA's conclusion. AR02053.

Finally, on the same day the FAA received the deputy SHPO's response, the agency finalized a "Categorical Exclusion Document" concluding that its actions were categorically excluded from further environmental review under NEPA. AR01999-2053. Although the Redesigned Procedures would permanently route aircraft over noise-sensitive areas that had only "occasionally" been exposed to overflights, AR00346, 00531, the FAA relied on a categorical exclusion that applies to "procedures conducted below 3,000 feet AGL that do *not* cause traffic to be routinely routed over noise-sensitive areas" or mere "modifications to currently approved procedures conducted below 3,000 ft. [above ground level] that do not significantly increase noise over noise-sensitive areas." AR02000 (emphasis added). The FAA published the Redesigned Procedures the following day, and they went into effect immediately.

SUMMARY OF THE ARGUMENT

Petitioners recognize that the President's security is paramount, even where it requires that Petitioners and their residents bear substantial burdens. But the APA demands that the FAA engage in "reasoned decisionmaking" and comply with federal law, even in the discharge of this solemn responsibility. The FAA failed to observe these fundamental dictates in establishing the National Defense Airspace and the Redesigned Procedures in several respects.

The FAA violated the APA in establishing the National Defense Airspace because the FAA did not follow required notice-and-comment procedures, engage in reasoned decisionmaking, or make any effort to comply with NEPA. The National Defense Airspace was established through a "Notice to Airmen," which did not afford any opportunity for public comment or establish good cause for dispensing with those procedures. The FAA also failed to explain why the National Defense Airspace was necessary for the President's security when he is not at Mar-a-Lago, or why less burdensome alternatives expressly suggested by the FAA's own senior leadership were infeasible. And because the FAA

improperly concluded that the National Defense Airspace was exempt from NEPA, it conducted no environmental analysis at all.

The Redesigned Procedures also violate the APA. First, they are explained only by the need to avoid the National Defense Airspace, which was itself promulgated unlawfully. Second, the FAA did not comply with NEPA, the NHPA, or Section 4(f) of the Department of Transportation Act in promulgating the Redesigned Procedures. The FAA improperly invoked a categorical exclusion designed for mere modifications of procedures that do not routinely route aircraft over new noise-sensitive areas, which is not true for the Redesigned Procedures. Moreover, the FAA ignored clearly present "extraordinary circumstances" that precluded its use of a categorical exclusion and based its decision on a flawed noise analysis that understated the increase in noise resulting from the Redesigned Procedures. The FAA also failed to engage in required consultation or consider the adverse impact of the Redesigned Procedures with respect to historic resources subject to the NHPA or parks and recreation areas subject to Section 4(f).

The Court should grant the Petitions for Review and vacate the National Defense Airspace and the Redesigned Procedures.

STANDING

To establish standing, Petitioners must demonstrate "a concrete and particularized injury that is actual or imminent, caused by or fairly traceable to the act being challenged in the litigation, and redressable by the court." *City of Dania Beach v. FAA*, 485 F.3d 1181, 1185 (D.C. Cir. 2007) (citation modified). Petitioners satisfy this requirement.

A. The Orders have injured the County.

The Orders directly regulate how the Airport's runways may be utilized by arriving and departing aircraft. As the owner and operator of the Airport, the County's standing is thus self-evident. *See New Jersey v. EPA*, 989 F.3d 1038, 1045 (D.C. Cir. 2021).

Moreover, the Orders have resulted in direct harm to the County's economic and administrative interests. *Clean Wis. v. EPA*, 964 F.3d 1145, 1158 (D.C. Cir. 2020); *City of Olmsted Falls v. FAA*, 292 F.3d 261, 268 (D.C. Cir. 2002) (local government standing based on "alleged harm to its own economic interests").

First, the FAA internally warned that the Orders would constrain the Airport's operations and capacity by limiting the use of the primary runway. AR00181-83, AR00531. Those concerns have materialized. The Orders effectively shorten the usable length of the Airport's runways, thereby limiting the Airport's ability to accommodate certain aircraft. Beebe Decl. ¶¶ 29-30; AR00711 (restrictions create a "shortened airspace to the [northeast], so we cannot accommodate as many aircraft . . . as we used to"). Indeed, the FAA's Air Traffic Manager has made clear that the Orders "reduce[] our capacity and efficiency for flowing traffic." AR00711; *see also* AR00346 (implementing restrictions "reduced the peak airport arrival rate from 28 to 24 arrivals per hour").

The FAA also cautioned the Redesigned Procedures would "definitely add additional risk." AR00545. And they have. AR00711 (restrictions "have caused an increase in go-arounds due to unstable approaches"); AR00767 ("unstable approaches and go-arounds are much more common" due to restrictions). Pilot's Aviation Safety Reporting

System[9] reports reinforce these worries. *See* Exhibit 3 (noting the Orders require an "extremely uncomfortable series of maneuvers" that are "questionable from a stabilized approach perspective" and, if there is limited ceiling or visibility, they "would certainly not allow for a safe operation"); Exhibit 4 (reporting "dangerous" difficulty spotting inbound aircraft when departing and explaining that the Redesigned Procedures were "a major contributing factor").

These operational challenges raise the risk of revenue loss from diverted flights. At least one such diversion has already occurred. In March, the Redesigned Procedures caused a flight bound for the Airport to be diverted to another airport. Beebe Decl. ¶¶ 23-24. Moreover, the Orders' impact on operations could compound revenue loss if travelers or airlines choose to use other airports in the area instead. *Id.* ¶¶ 25-26; AR00531 (FAA listing "loss of airline revenue" as impact).

Second, the Orders hinder the County's expansion plans for the Airport. The County has long planned to enhance capacity by expanding

[9] Available at https://asrs.arc.nasa.gov/search/database.html.

Runway 10R-28L (which runs parallel to Runway 10L-28R) and expended time and money on this project. Beebe Decl. ¶¶ 31-32. By severely limiting airspace capacity east of the Airport, the Orders have complicated those plans and will require the County to undertake additional planning (and incur associated costs). *Id.* ¶¶ 33-34; *see also* AR00346 (the Orders "will impact the [County's] plans to extend existing RWY 10R/28L as the efficiency gains would be less than previously anticipated."). In fact, the FAA apparently intends to "[i]nitiate the process to extend Runway 14/32"—a different runway entirely—"and reduce reliance on Runway 10L for commercial operations." AR00225. Expansion of Runway 14/32 would not only increase the County's costs, but would do little to address its capacity challenges. Beebe Decl. ¶ 35.

Third, the substantial increase in overflights experienced by nearby communities as a result of the Orders harms the County's proprietary interests in managing the noise impacts of the Airport. *City of Las Vegas v. FAA*, 570 F.3d 1109, 1114 (9th Cir. 2009) (holding that city had standing because "proposed departure path directs flights over densely populated parts of the city, which threatens the city's interests in the

environment and in land management"); *City of Sausalito v. O'Neill*, 386 F.3d 1186, 1197 (9th Cir. 2004) (injuries to municipality's "own proprietary interests," including the "municipality's responsibilities, powers, and assets" confer standing (citation modified)). Noise complaints spiked as soon as the Orders went into effect. Beebe Decl. ¶ 14. The County has been forced to devote substantial time and resources to investigate and respond to these complaints and additional time to planning and coordinating with affected community members. *Id.* ¶¶ 16-17. In fact, the Airport's Noise Abatement Manager now dedicates most of his time to investigating and responding to complaints associated with the Orders. *Id.* The County also incurred costs from the relocation of three noise monitors, which needed to be moved to reflect the change in flight paths resulting from the Orders. *Id.* ¶ 19.

Finally, the County has also incurred procedural injury. As discussed below, the FAA's procedural shortcomings are myriad and directly implicate the County's interests. *See Dania Beach*, 485 F.3d at 1185 (quoting *City of Waukesha v. EPA*, 320 F.3d 228, 234 (D.C. Cir. 2003)). The FAA's procedural requirements under NEPA, the NHPA,

Section 4(f), and the FAA's own internal operating procedures are "designed to protect some threatened concrete interest of the plaintiff" as they specifically concern the County's operation of the Airport. *Id.*

B. The Orders have injured the City and the Town.

The City and Town have procedural standing. *See City of Waukesha*, 320 F.3d at 234 ("A violation of the procedural requirements of a statute is sufficient to grant a plaintiff standing to sue, so long as the procedural requirement was designed to protect some threatened concrete interest of the plaintiff."). Here, both municipalities have demonstrated their particularized interests in preserving and protecting their aesthetic environments, natural resources, and historic resources. Specifically, the City and Town have adopted ordinances aimed at ensuring quiet, peaceable environments for their residents; have enacted measures to protect their natural resources, including parks and recreation areas; and maintained robust historic preservation programs. James Decl. ¶¶ 6-8, 18-21, 29-30; Blouin Decl. ¶¶ 6-8, 19-20, 27-28.

These are precisely the concrete interests that NEPA, the NHPA, Section 4(f), and the FAA's implementing procedures were designed to

protect. *See Narragansett Indian Tribe v. McMaster*, No. 24-5193, 2026 WL 1450020, at *1 (D.C. Cir. May 22, 2026) (NHPA "requires federal agencies . . . to take into account the effect of the undertaking on any historic property"); *Dania Beach*, 485 F.3d at 1186 (NEPA's procedural requirements "were designed to protect persons . . . who might be injured by hasty federal actions taken without regard for possible environmental consequences"); *Allison v. Dep't of Transp.*, 908 F.2d 1024, 1027 (D.C. Cir. 1990) (Section 4(f) is designed to "preserve the natural beauty of the countryside and public park and recreation lands").

Nonetheless, and as explained below, the FAA failed to comply with many of the procedures required by these statutes—namely, its obligation to conduct a NEPA environmental review and its consultation obligations under the NHPA and Section 4(f)—prior to implementing the Orders. These are "archetypal procedural injur[ies]." *See Ctr. for Biological Diversity v. Zeldin*, 171 F.4th 356, 374 (D.C. Cir. 2026) (citation omitted); *Dania Beach*, 485 F.3d at 1185.

The FAA's procedural missteps directly led to its erroneous implementation of the Orders, which were predicated on the agency's

flawed and inadequate environmental review. *See* AR00764 (agency's completion of its "[r]eview of the environmental and regulatory requirements" supported publication of the Orders). As a result, the Orders have directly harmed—and will continue to harm—the City's and Town's aforementioned interests.

Specifically, the Orders "route and concentrate air traffic over noise sensitive areas," including residential neighborhoods, "that previously experienced this level of noise only occasionally." AR00346. This has decimated the quiet aesthetic that the City and Town have sought to protect and led to an outcry from residents. James Decl. ¶¶ 7-9; Blouin Decl. ¶¶ 7-10, Exs. A-I; AR00342; AR00711; AR00735; AR00745. This has harmed the City's and Town's concrete environmental interests. *City of Las Vegas,* 570 F.3d at 1114 (city's "interests in the environment and in land management" were threatened where proposed flight path changes "direct[ed] flights over densely populated parts of the city").

Further compounding the harm, the sight and sounds of aircraft have substantially impaired the City's and Town's historic and natural resources. Numerous historic sites and residential districts, as well as

City- and Town-owned parks and recreation areas that once offered scenic views and quiet environments, are now constantly subjected to the intrusive sight of low-flying aircraft, vibrations, and substantially increased aircraft noise that is so loud it inhibits face-to-face conversation. James Decl. ¶¶ 9-16, 22-25; Blouin Decl. ¶¶ 9-17, 21-23; Horn Decl. ¶¶ 5-7; Caler Decl. ¶¶ 5-7; *see* AR02032 (the Redesigned Procedures will "result in reportable [noise] increases over [the Town] and the eastern coast of [the City]"); AR02042-43 (discussing reportable noise increases over the City and Town due to the Redesigned Procedures). This harms the City's and Town's interest in preserving their natural and historic resources.

C. Petitioners' injuries were caused by the Orders and are redressable by the Court.

The above-described injuries of the County, the City, and the Town are the result of the Orders. Moreover, a favorable decision from the Court setting aside the Orders would redress these harms, by allowing the County to resume normal operations at the Airport, requiring the FAA to engage in appropriate consultation and consider less impactful

alternatives, and eliminating the adverse impact on the City's and Town's noise-sensitive resources.

ARGUMENT

I. THE FAA'S ESTABLISHMENT OF THE NATIONAL DEFENSE AIRSPACE OVER MAR-A-LAGO VIOLATES THE APA AND APPLICABLE ENVIRONMENTAL REVIEW STATUTES

A. The FAA failed to follow mandatory notice-and-comment procedures.

The FAA violated the ADA in establishing the National Defense Airspace because it did not comply with notice-and-comment procedures. *See* 5 U.S.C. § 553(b). Rather, the FAA established the National Defense Airspace through a "Notice to Airmen" that was not published in the Federal Register, did not provide an opportunity for comment, and did not recite good cause for dispensing with the APA's public notice-and-comment procedures. AR00328-29.

There is also no statutory exception to notice-and-comment requirements available here. The FAA expressly invoked Section 40103(b) to establish the National Defense Airspace, AR00328, which makes clear that notice-and-comment is required "notwithstanding the military exception in section 553(a)(1)." 49 U.S.C. § 40103(b)(4). And

there is no doubt that the National Defense Airspace—which punishes incursions through criminal charges or the use of deadly force, AR00328—is a "legislative rule" for which notice-and-comment is required. *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 215 (2016). The FAA's failure to follow notice-and-comment procedures renders its establishment of the National Defense Area unlawful. *City of Billings v. Transp. Sec. Admin.*, 153 F.4th 46, 51-54 (D.C. Cir. 2025).

Public notice was also required under the FAA's own procedures. FAA Order 7400.2R outlines the process by which the FAA "establish[es]/designate[s] airspace in the interest of national defense, security, or interest," known collectively as "special use airspace." AR04540.[10] Order 7400.2R expressly requires the FAA to "invite the public to comment on the impact of [special use airspace] proposals on

[10] The FAA at times refers to the restriction over Mar-a-Lago as a TFR, but it is clearly "special use airspace" subject to Order 7400.2R. AR00495 (formally referring to the airspace over Mar-a-Lago as "Special Use Airspace"); *North Carolina v. FAA*, 957 F.2d 1125, 1128 (4th Cir. 1992) (characterizing airspace restricted pursuant to section 40103(b)(3)'s predecessor statute as "special use airspace").

the safe and efficient use of the navigable airspace." *See* AR04542-44 (outlining the applicable "[p]ublic notice procedures").

Indeed, the FAA *has* published notice and sought public comment for its establishment of a "Prohibited Area" over the President's New York residence, which the Secret Service requested contemporaneously with its request for the National Defense Airspace. 91 Fed. Reg. 23,187 (Apr. 30, 2026); AR00178; *see also* 91 Fed. Reg. at 23,188 (listing other examples where the FAA followed notice-and-comment requirements in establishing airspace restrictions for Presidential protection). And the FAA previously acknowledged that any restriction over Mar-a-Lago would need to comply with notice-and-comment procedures. AR00169.

The FAA's failure to follow these procedures with respect to the National Defense Airspace requires the Court to set the FAA's Orders aside. *Nat'l Env't Dev. Ass'n's Clean Air Project v. EPA*, 752 F.3d 999, 1009 (D.C. Cir. 2014) (agency action must "be set aside as arbitrary and capricious if the agency fails to comply with its own regulations."); *see also BFI Waste Sys. of N. Am., Inc. v. FAA*, 293 F.3d 527, 533 (D.C. Cir. 2002) (granting petition for review based on the FAA's failure to comply

with Order 7400.2); *Backcountry Against Dumps v. FAA*, 77 F.4th 1260, 1270 (9th Cir. 2023) (same).

B. The National Defense Airspace is inconsistent with statutory criteria and not the product of reasoned decisionmaking.

The FAA's establishment of the National Defense Airspace is also arbitrary and capricious because it was adopted contrary to the FAA's statutory authority and is not the product of "reasoned decisionmaking."

It is a "basic principle of administrative law" that "agencies must comply with the requirements and limits contained in the text of applicable statutes." *City of Anaheim v. FERC*, 558 F.3d 521, 522 (D.C. Cir. 2009). The FAA failed to do so here in multiple ways.

First, the FAA expressly invoked Section 40103(b)(3) to establish the National Defense Airspace. AR00333. That statute requires the FAA to consult with the Secretary of Defense prior to establishing national defense airspace. 49 U.S.C. § 40103(b)(3). There is no record evidence the FAA did so.[11] The FAA's unilateral designation of the National

[11] It appears the only other federal agency with any involvement was the Secret Service, a law enforcement agency "within the Department of

Defense Airspace was accordingly unlawful. *See Vill. of Bensenville v. FAA*, 376 F.3d 1114, 1122-23 (D.C. Cir. 2004) (granting petition based on the FAA's failure to comply with the Federal Aviation Act).

Second, Section 40103(b)(3) requires the FAA to preserve "maximum use of the navigable airspace by civil aircraft consistent with national security," and restrict only those aircraft it "cannot identify, locate, and control." In discharging this obligation, the FAA must "engage in reasoned decisionmaking," *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 16 (2020), by "articulat[ing] a satisfactory explanation for its action[s] including a rational connection between the facts found and the choice made," *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

The FAA's establishment of the National Defense Airspace fails these standards because the Administrative Record establishes no link between Presidential security and the prohibition of *all* aircraft over

---

Homeland Security." *Jud. Watch, Inc. v. U.S. Dep't of Homeland Sec.*, 895 F.3d 770, 776 n.1 (D.C. Cir. 2018).

Mar-a-Lago at *all* times. The Court "must be able to discern the why and wherefore of the agency's decision-making process." *Solondz v. FAA*, 141 F.4th 268, 277 (D.C. Cir. 2025) (citation modified). But the FAA's decision to grant the Secret Service's request in full does not provide any explanation for the agency's choices. AR00224-25.

Indeed, the only explanation the FAA has offered for the National Defense Airspace is simply that the Secret Service asked for it. Nothing in the Administrative Record explains how the requested "24/7/365" prohibition preserves "maximum use of the navigable airspace by civil aircraft consistent with national security." *See* 49 U.S.C. § 40103(b)(3). Nothing in the Administrative Record explains why the National Defense Airspace excludes even aircraft that the FAA *can* "identify, locate, and control," contrary to Section 40103(b)(3)(B).[12] Nothing in the Administrative Record explains the physical dimensions of the National Defense Airspace, or why the FAA *increased* its vertical dimension from

[12] Indeed, a comprehensive system is in place to ensure the FAA can identify, locate, and control aircraft near Mar-a-Lago when the President is in residence. AR00009-24.

the 1,000 feet that the Secret Service requested to 2,000 feet above ground level. *Compare* AR00178, *with* AR00333. And nothing in the Administrative Record explains the FAA's abrupt departure from restricting only drones when the President is not at Mar-a-Lago.

Nor can the FAA bootstrap on the Secret Service's request. On its face, the Secret Service's suggestion that it is necessary for the "safety and security of [its] protectee," AR00178, to prohibit aircraft from overflying Mar-a-Lago when he may be thousands of miles away is "so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *State Farm*, 463 U.S. at 43. And vague invocations of national security do not suffice. *See Nat'l Trust for Historic Pres. in the U.S. v. Nat'l Park Serv.*, No. 25-3116, 2026 U.S. Dist. LEXIS 83870, at *13 (D.D.C. Apr. 16, 2026) ("[N]ational security is not a blank check to proceed with otherwise unlawful activity."). The FAA must "articulate a *satisfactory* explanation for [its] actions." *State Farm*, 463 U.S. at 43 (emphasis added). Here, the FAA "gave almost no reasons at all . . . [and its] conclusory statements do not suffice to explain its decision." *Encino Motorcars*, 579 U.S. at 224.

The FAA was also not duty-bound to accede to the Secret Service's request. Section 40103(b) required the FAA to perform its own analysis to balance the President's security with maximum civil use of the navigable airspace. 49 U.S.C. 40103(b). Indeed, the FAA acknowledged as much. AR00557 (providing data to assist in "negotiations" with Secret Service); AR00736 ("The Secret Service is not responsible for moving traffic flows."). The FAA's blind consent to the Secret Service's unsupported request requires reversal. *See AMB Onsite Servs.-West, Inc. v. NLRB*, 849 F.3d 1137, 1146 (D.C. Cir. 2017) ("[A]n agency cannot avoid its duty to explain a departure from its own precedent simply by pointing to another agency's unexplained departure from precedent.").

Third, the FAA failed to consider important aspects of the problem before it. *State Farm*, 463 U.S. at 43. Before the Secret Service's request was submitted, the FAA recognized that "[t]he proximity of [the Airport] to Mar-a-Lago and the densely populated Palm Beach Area are factors that must be considered" in connection with potential airspace restrictions. AR00158. In the wake of the Secret Service's request,

however, it seems to have forgotten such considerations and ignored the weighty concerns raised by its own subject matter experts.

The FAA's Airport Traffic Manager warned that the Secret Service's request would "definitely add additional risk in the [National Airport System]." AR00544-45. The Chief Operating Officer similarly explained to the Administrator that the request would "creat[e] severe safety, capacity and efficiency impacts that cannot be mitigated in the near term." AR00180. He noted that departure procedures would require substantial redesign, including immediate turns and excessive climb gradients that would "trigger multiple approvals and waives [sic] and would undergo a safety risk assessment with no guarantee of approval." AR00182. He explained such procedural changes would shorten the usable length of the Airport's primary runway, *id.*, which "shocked" the FAA's Airports Division when they learned of it, AR00594. And he warned that the National Defense Airspace would result in increased workload for air traffic controllers and reduced redundancy, among other "operational risks." AR00183.

The Chief Operating Officer laid out specific recommendations for how the FAA could avoid these problems, AR00180-183, but the FAA did not adopt them, and the Administrative Record does not explain why. Even FAA staff seemed confused. In memoranda predating the Secret Service's request, FAA staff consistently assumed that any restriction over Mar-a-Lago would not apply to commercial airlines. AR00158 (describing "exceptions for 14 CFR Part 121 operators"), AR00168 ("scheduled air carriers would be exempt from avoiding the National Defense Airspace"). And in the "rush job" to consider the Secret Service's request, *see* AR00317, staff expressed confusion over whether "commercial or General Aviation (GA) aircraft will be able to fly through the TFR," but "hope[d]" that commercial airlines would be exempt. AR00553. The FAA's failure to consider, or explain its reasons for rejecting, such an exemption—particularly in light of its obligation to ensure "maximum use of the navigable airspace by civil aircraft consistent with national security" and restrict only those aircraft it cannot "identify, locate, and control," 49 U.S.C. § 40103(b)—is fatal. *Cincinnati Bell Tel. Co. v. FCC*, 69 F.3d 752, 761 (6th Cir. 1995) (an

agency "is required to give an explanation when it declines to adopt less restrictive measures in promulgating its rules").

Because the FAA's establishment of the National Defense Airspace "is not reasonable and reasonably explained," the Court must set it aside. *Ohio v. EPA*, 603 U.S. 279, 292 (2024) (citation modified).

C. The FAA failed to conduct any environmental review.

The FAA also treated the National Defense Airspace as wholly exempt from environmental review, in violation of NEPA and the agency's NEPA-implementing procedures.

NEPA requires federal agencies to "consider every significant aspect of the environmental impact of a proposed action" prior to taking that action. *Balt. Gas & Elec. Co. v. Nat. Res. Def. Council*, 462 U.S. 87, 107 (1983). "This process ensures that *before* an agency acts, it will have available and carefully consider detailed information concerning significant environmental impacts." *City of Phoenix v. Huerta*, 869 F.3d 963, 971 (D.C. Cir. 2017) (citation modified). The FAA has recognized that the establishment of "national defense areas" are generally subject to such environmental review. *See* AR04541-42 ("[Special use airspace]

actions are subject to environmental impact analysis in accordance with [NEPA]"); *see also* AR04748 (identifying special use airspace as a type of action normally requiring an environmental assessment).

Here, however, the FAA skirted NEPA altogether by classifying its establishment of the National Defense Airspace as a "ministerial" or "advisory" action. AR01991-92. Neither classification applies.

To be sure, NEPA does exclude certain "nondiscretionary actions" from environmental review. 42 U.S.C. § 4336e(10)(B)(vii). If an agency "does not have sufficient discretion to affect the outcome of its actions, and its role is merely ministerial, the information that NEPA provides can have no [e]ffect on the agency's actions, and therefore NEPA is inapplicable." *Citizens Against Rails-to-Trails v. Surface Transp. Bd.*, 267 F.3d 1144, 1151 (D.C. Cir. 2001). The FAA's procedures elaborate on this exclusion, explaining that NEPA does not apply where "Congress by statute has prescribed decisional criteria with sufficient completeness and precision such that FAA retains no residual discretion to alter its action based on the consideration of environmental factors." AR04738.

But the FAA's establishment of the National Defense Airspace does not qualify for this treatment. The National Defense Airspace was not implemented pursuant to any congressionally-prescribed criteria that deprived the FAA of discretion. Rather, the National Defense Airspace was implemented in response to a request from the Secret Service that did not identify any statutory requirement to implement the National Defense Airspace; it merely "request[ed] the FAA's support," gave only the barest of reasons for its request, and asked about "next steps in the review and approval process." AR00178.

Moreover, the controlling statute *expressly requires* the FAA to exercise discretion to balance national security and maximum use of the navigable airspace and "decide" when and to what extent national defense airspace is necessary. 49 U.S.C. § 40103(b)(3). Nothing in Section 40103(b)(3) requires the FAA to establish any particular area as national defense airspace—including when requested to do so.

The Administrative Record also reflects that the FAA was exercising, and not deprived of, its discretion with respect to the National Defense Airspace. The Chief Operating Officer's memorandum to the

Administrator detailed anticipated operational impacts of the Secret Service's request, proposed modifications to reduce those impacts, and noted noise abatement and community impact concerns. AR00180-83. A week later, the Administrator updated the Secret Service that the FAA had "analyzed the operational implications [of the requested National Defense Airspace] and developed a recommended action plan for consideration." AR00224; *see also* AR00557 (FAA staff communications referring to "negotiations" with the Secret Service); AR00736 ("The Secret Service is not responsible for moving traffic flows.").

The FAA's exclusive authority to determine the parameters of the National Defense Airspace is a far cry from cases where NEPA has been held inapplicable because an agency's hands are tied or the action is purely ministerial. *See, e.g.*, *Dep't of Transp. v. Public Citizen*, 541 U.S. 752, 769 (2004) (agency not required to evaluate environmental impact "of an action it could not refuse to perform" because Congress mandated action); *Ctr. for Biological Diversity v. Salazar*, 706 F.3d 1085, 1096 (9th Cir. 2013) (classifying input of mine reclamation data into software and approval of updated reclamation bond amount as "ministerial," "post-

project approval functions" that did not trigger NEPA review). The FAA may have chosen to exercise its discretion exactly as the Secret Service asked it to, but that does not mean it had no discretion to exercise.

Second, the FAA's establishment of the National Defense Airspace was not exempt from NEPA because it was only "advisory in nature," as the FAA claimed. AR01991. Actions are excluded from NEPA review as "advisory" when the FAA "does not have substantial control or responsibility over their outcome" because it is merely providing information, not forcing action. AR04739. But here, the FAA's designation of the National Defense Airspace was action-forcing and required immediate compliance from all aircraft traveling near Mar-a-Lago, as well as implementation of procedural amendments by the FAA. AR00333; AR00637. It cannot be considered "advisory."

Moreover, only two types of special use airspace are "advisory": alert areas and warning areas. AR04739. The designation of these areas informs or warns pilots of unusual activity or hazards but does not impose restrictions on where they can fly. AR04581, 04590. The

National Defense Airspace is neither: it prohibits aircraft from overflying Mar-a-Lago under threat of criminal penalties or lethal force. AR00333.

Other than these two types of special use airspace "explicitly listed as an advisory action," the designation of special use airspace requires an environmental assessment. AR04748; *see also* AR04541-42 (describing NEPA requirements for special use airspace actions other than designation of alert areas and warning areas). In sum, it was arbitrary and capricious for the FAA to exclude designation of the National Defense Airspace from NEPA review.

Finally, beyond NEPA, the FAA also failed to evaluate the impacts of the National Defense Airspace on historic properties and park and recreation areas as required by the NHPA and Section 4(f). *See* 54 U.S.C. § 306108; 49 U.S.C. § 303; *see also* AR04741 (requiring FAA compliance with these statutory provisions). The Administrative Record lacks any indication the FAA complied with the requirements of those statutes before establishing the National Defense Airspace.

II. THE FAA'S MODIFICATION OF THE AIRPORT'S DEPARTURE AND ARRIVAL PROCEDURES SOLELY TO AVOID OVERFLIGHT OF MAR-A-LAGO VIOLATES THE APA AND APPLICABLE ENVIRONMENTAL REVIEW STATUTES

After unlawfully establishing the National Defense Airspace, the FAA set about finalizing the Redesigned Procedures to formalize the ad hoc procedures established through the LTAs, ensuring that arriving and departing aircraft would not overfly Mar-a-Lago, and concentrating such aircraft over neighborhoods not previously exposed to aircraft noise. The Redesigned Procedures, too, are arbitrary and capricious.

A. There is no "reasoned basis" for the Redesigned Procedures.

Initially, the FAA did not and cannot articulate any reason for changing the Airport's long-standing arrival and departure paths *other* than avoiding the National Defense Airspace, which, as described above, was not the product of reasoned decisionmaking. *See* AR01999. The FAA's failure to "consider responsible alternatives" to the National Defense Airspace, *Spirit Airlines, Inc. v. U.S. Dep't of Transp.*, 997 F.3d 1247, 1255 (D.C. Cir. 2021), irreparably infected its analysis of the Redesigned Procedures; indeed, the FAA did not consider *any* alternative to the Redesigned Procedures that would maintain the safety and

efficiency of the Airport's existing procedures. AR01999. Because the FAA's only explanation for the Redesigned Procedures was itself unlawful, the Redesigned Procedures must also be vacated.

B. The FAA arbitrarily and capriciously applied a categorical exclusion to avoid more detailed NEPA review of the Redesigned Procedures.

The FAA also applied a categorical exclusion to avoid detailed environmental review and public disclosure of the Redesigned Procedures, in violation of NEPA and the FAA's own procedures.

NEPA typically requires agencies to evaluate environmental impacts of proposed actions by preparing an environmental assessment or environmental impact statement, but agency actions that "normally do[] not significantly affect the quality of the human environment" may be excluded from more detailed environmental review. AR04743; *City of Phoenix*, 869 F.3d at 971-72. The FAA's list of such "categorical exclusions" includes certain flight procedure actions. AR04787. After months of strategizing over how to insulate the Redesigned Procedures from NEPA review, *see* AR00347, 00724, 00739, the FAA ultimately invoked a categorical exclusion that applies to "modifications to currently

approved procedures conducted below 3,000 feet AGL that do not significantly increase noise over noise-sensitive areas." AR02000.

But even when a categorical exclusion *may* apply (and, here, one does not), the FAA must evaluate the action for the presence of "extraordinary circumstances" that would make use of a categorical exclusion inappropriate. AR04744. The FAA failed to do so.

i. *The FAA wrongly invoked a categorical exclusion to implement the Redesigned Procedures, which rerouted aircraft over noise-sensitive areas.*

The FAA's reliance on its chosen categorical exclusion was improper because the agency did not merely "modif[y]" flight procedures, it fully redesigned them, and in a way that routinely routes aircraft over noise-sensitive areas *for the first time*. AR02000.

First, although the names of the Redesigned Procedures may be the same, that linguistic fig leaf is merely an attempt to shoehorn the Redesigned Procedures into a categorical exclusion. *See* AR02054 (internal email stating categorical exclusion would be used "due to the short notice for publishing new procedures"). The record shows that the procedures were not merely modified—they were completely overhauled,

comprising new flight paths, new turns, and non-standard climb rates. FAA personnel repeatedly characterized the agency's action as a complete "redesign" of the Airport's procedures. *E.g.*, AR00338, 00541-43, 00582, 00608, 00654, 00672, 00744.

Second, the Redesigned Procedures permanently route aircraft over noise-sensitive areas not previously exposed to such air traffic. AR00346-47, 00531. That precludes the application of the categorical exclusion the FAA invoked. The FAA's NEPA procedures are clear that new and modified procedures "that routinely route aircraft over noise sensitive areas at less than 3,000 feet above ground level" normally require an environmental assessment. AR04748. Flight procedure actions that change the routine routing of aircraft may only be approved with a categorical exclusion when they either "do not cause traffic to be routinely routed over noise sensitive areas" or "routinely route aircraft over *non*-noise sensitive areas." AR04787-88 (emphasis added).

These provisions make clear that the impacts of new or redesigned procedures that routinely route aircraft over noise-sensitive areas must be evaluated through an environmental assessment and not summarily

dismissed by categorical exclusion. The FAA violated this requirement here by authorizing the routine routing of aircraft over noise-sensitive areas through wrongful application of a categorical exclusion. *See Wilderness Watch v. Mainella*, 375 F.3d 1085, 1094-95 (11th Cir. 2004).

ii. *The FAA failed to properly consider the presence of extraordinary circumstances.*

The FAA's application of a categorical exclusion to the Redesigned Procedures was also flawed because the FAA failed to consider the "extraordinary circumstances" presented by its controversial actions.

The FAA may not apply a categorical exclusion without first evaluating its proposed action for "extraordinary circumstances" that indicate the action "is likely to have reasonably foreseeable significant adverse impact(s)." AR04744. If the FAA determines that no extraordinary circumstances exist, it must document and explain that conclusion before proceeding with a categorical exclusion. AR04745. If the FAA determines extraordinary circumstances do exist, it must conduct a more detailed environmental review. AR04744.

The FAA's NEPA procedures identify situations that may present "extraordinary circumstances" if they "ha[ve] the potential for a

significant effect." AR04777-78. Relevant here, the FAA has determined that extraordinary circumstances may exist if the effects of the proposed action "are likely to be highly controversial on environmental grounds," for example, if there is "reasonable disagreement over the degree, extent, or nature of a proposed action's environmental impacts." AR04778. When determining whether reasonable disagreement exists, the FAA considers opposition by a local government or a "substantial number of the persons affected by the action." *Id.*

Here, however, the FAA's Categorical Exclusion Document boldly concluded that the Redesigned Procedures are "not expected to . . . involve any extraordinary circumstances." AR02002. But there is no record of the potential extraordinary circumstances the FAA considered or why the FAA determined they were not present. Although the omission of these details does not automatically render a categorical exclusion determination deficient, AR04745, here it seriously calls into question whether the FAA considered extraordinary circumstances at all, *see id.* (requiring additional documentation for actions involving aircraft

over noise-sensitive areas, known controversies and significant public opposition, and anticipated litigation).

Indeed, the Administrative Record is abundantly clear that the FAA was aware of substantial local government and general public opposition to the Redesigned Procedures. *E.g.*, AR00343 (discussing media coverage and complaints "start[ing] to roll in," including from the Town); AR00531 (anticipating congressional complaints and litigation); AR00690 (referring to community "outcry" regarding "new flightpaths"); AR00711 (describing exponential increase in noise complaints as well as fact that "local county commissioners and mayors are wanting answers"); AR00713-21 (strategizing a response to County's written objections and concerns regarding Redesigned Procedures); AR00725 (noting "a lot of publicity with these new routes" and requesting agency attendance at meeting with local politicians and news coverage); AR00735 ("The FAA has received a letter from the Airport Operator, congressional inquiries, resident complaints, and an invitation to speak at the community noise roundtable, all because of the flight path changes . . . ."); AR00740-41

(brainstorming ways for NEPA review to "quash any noise complaints, legitimate tho [sic] they may be").

Yet the FAA *actively prevented* interested stakeholders from learning about and commenting on its actions. The Redesigned Procedures formalized earlier procedural amendments that the FAA kept from the public—and even from the County, the operator of the Airport—until they were final. AR00473 (meeting request to brief Airport and other stakeholders on "already . . . developed and approved" procedural amendments they were "unaware of"); AR00592 (instructing FAA staff not to engage the County to identify impacts); AR00686 (rejecting approval for an "Outward Facing Meeting Request" to discuss the Redesigned Procedures). And the FAA did not seek nor consider stakeholder input even when finalizing the Redesigned Procedures. *See* AR00717-21, 00746; Exhibit 2.

This Court has previously held that when the FAA fails to notify "local citizens and community leaders" of flight procedure changes before they go into effect, it is "impossible for the FAA to take into account" potential controversy to evaluate the presence of extraordinary

circumstances, and it is arbitrary and capricious for the FAA to rely on a categorical exclusion. *See City of Phoenix*, 869 F.3d at 972 (citations omitted); *see also Am. Bird Conservancy, Inc. v. FCC*, 516 F.3d 1027, 1035 (D.C. Cir. 2008) (finding that agency failed to comply with own NEPA procedures and explaining that "[i]nterested persons cannot request an EA for actions they do not know about, much less for actions already completed"). The Court should reach the same conclusion here.

Even if the FAA could have abbreviated its consideration of extraordinary circumstances based on its conclusion that the Redesigned Procedures would not result in "significant" noise increases, its choice to proceed with a categorical exclusion was still arbitrary and capricious.

First, the FAA has previously considered flight procedure changes "highly controversial" for extraordinary circumstances purposes if they result in increases in noise levels that are "reportable," even if not "significant." *See City of Phoenix*, 869 F.3d at 972 (describing prior agency characterization of changes that "increase sound levels by five or more decibels in an area already experiencing average levels of 45-60 decibels," as a reportable increase). Here, the FAA's noise screening

analysis indicated increases of that magnitude. AR02001, 02040-42. The FAA's failure to consider these reportable increases as indicative of extraordinary circumstances is an arbitrary and capricious departure from past practice. *See City of Phoenix*, 869 F.3d at 972-73.

Second, the record shows the FAA expected the Redesigned Procedures to have a significant effect on communities not previously under routine flight paths. *See* AR00740-41 (offering potential justifications for flight procedure changes "even though the one flight procedure alternative would breach the accepted noise significance threshold"); *see also* AR00346-47, 00531. While the FAA ultimately prepared a noise screening analysis showing reportable but not significant effects, its awareness of the potentially significant impacts of its action was enough to warrant further study. *See* AR04777 (potential for extraordinary circumstances when proposed action "*[m]ay* have a significant effect" (emphasis added)).

Third, the FAA's noise screening analysis concluding the Redesigned Procedures would not result in "significant" impacts was flawed. Its analysis purports to have used historical flight track data

from randomly selected days prior to the establishment of the National Defense Airspace to establish a noise baseline that could be compared to noise modeling for the proposed Redesigned Procedures. AR02032, 02034. However, the analysis erroneously incorporated data from December 20, 2025—months after the National Defense Airspace was implemented and aircraft were being directed around it—into the baseline. *See* AR02035. This methodological error skewed the baseline flight route model. Given that the noise screening analysis showed "reportable" increases in noise, *see* AR02042-44, correcting the skewed baseline could reveal impacts that meet or exceed the FAA's significance threshold for noise impacts, *see* AR02040, 04772. And a significant increase in noise would prevent the FAA from applying the categorical exclusion it used here altogether. *See* AR02000.

This Court has previously vacated FAA action where the agency improperly calculated a baseline for evaluating aircraft noise. *See Marin Audubon Soc'y v. FAA*, 121 F.4th 902, 915, 918 (D.C. Cir. 2024). This is problematic, the Court explained, because "[i]f the baseline is artificially high, the agency might erroneously conclude that even highly disruptive

actions will have minimal incremental environmental effects," allowing the agency to "avoid conducting a more comprehensive environmental analysis required by NEPA." *Id.* at 916. That is what happened here.

C. The FAA failed to consider the impact of the Redesigned Procedures on historic properties under the NHPA.

The FAA also adopted the Redesigned Procedures in violation of the NHPA. The NHPA comprises "a series of measures designed to encourage preservation of sites and structures of historic, architectural, or cultural significance." *Penn Cent. Transp. Co. v. City of New York*, 438 U.S. 104, 108, n.1 (1978). To ensure the protection of such properties is considered before an agency acts, the NHPA and its implementing regulations require agencies to identify the "area of potential effects" of a proposed agency action (referred to as an "undertaking"); identify historic properties in that area; consult with interested stakeholders, including local governments, about historic properties and potential impacts; and work to minimize adverse effects. *See* 54 U.S.C. § 306108; 36 C.F.R. §§ 800.4-800.6. Consultation requires "seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the section 106

process." *Eagle Cnty. v. Surface Transp. Bd.*, 82 F.4th 1152, 1189 (D.C. Cir. 2023), *rev'd and remanded on other grounds sub nom. Seven Cnty. Infrastructure Coal. v. Eagle Cnty.*, 605 U.S. 168 (2025).

The FAA acknowledged that the Redesigned Procedures were an undertaking subject to, and requiring consultation under, section 106. AR02049. Nonetheless, the FAA paid mere lip service to section 106's requirements and violated the NHPA when it failed to properly consult with the requisite parties, failed to adequately identify and consider effects on historic properties, and arbitrarily issued a "No Adverse Effect" determination for the Redesigned Procedures.

i. *The FAA violated NHPA consultation requirements.*

The NHPA's implementing regulations outline the "consulting parties" an agency must involve in the section 106 process, including the SHPO, representatives of local governments, and individuals and organizations with a demonstrated interest in the undertaking. 36 C.F.R. § 800.2(c). Agencies must also "seek and consider the views of the public." *Id.* § 800.2(d)(1). In addition to engaging all these constituents at the outset of the process, the agency must notify them of

its determination whether or not the undertaking will have an adverse effect on historic properties. *See id.* § 800.4(d)(1). A consulting party may then challenge an agency's finding of "no adverse effect." *See id.* § 800.5(c). The FAA failed to comply with these requirements.

First, the FAA failed to adequately consult with the SHPO. "[C]onsultation with the SHPO is an integral part of the section 106 process." *Pueblo of Sandia v. United States*, 50 F.3d 856, 862 (10th Cir. 1995). Although required by section 106, there is no evidence in the Administrative Record that the FAA consulted the SHPO to determine the area of potential effect or to identify historic properties in that area. *See* 36 C.F.R. § 800.4(a)-(b). Nor is there any evidence of consultation related to the essential tasks of identifying other consulting parties or engaging the public. *Id.* § 800.3(e)-(f).

The Administrative Record contains only *one* communication from the FAA to the deputy SHPO, sent on January 15, 2026—seven days before the FAA published the Redesigned Procedures. AR02057. This email requested "expedited review" of a letter containing the FAA's section 106 determination. *Id.* The letter claimed to be "initiat[ing]

consultation under Section 106" but, *at the same time*, requested the SHPO's "concurrence with [the FAA's] finding of No Adverse Effect on historic properties." AR02049, 02052. In other words, the FAA waited to consult the SHPO until the FAA's section 106 process was, in the FAA's view, already complete, failing to meaningfully engage the SHPO at the outset or during that process, in violation of federal regulations and agency procedures.[13] *See* 36 C.F.R. §§ 800.3(e)-(f), 800.4(a)-(b); AR04741 (requiring the FAA to comply with section 106 and conduct consultation concurrently with its NEPA process).

Second, the FAA failed to engage or invite the participation of other consulting parties and the public. There is no evidence, for example, that the FAA attempted to consult (much less did consult) with Petitioners, who are all local governments with jurisdiction over the area potentially

---

[13] While the NHPA provides for "[e]xpedit[ed] consultation," through which a consultation can "address multiple steps" in the section 106 process, it is not clear from the Administrative Record that this process was invoked here. 36 C.F.R. § 800.3(g). Moreover, the agency must still ensure that "consulting parties and the public have an adequate opportunity to express their views." *Id.* As discussed below, the FAA afforded no such opportunity here.

impacted by the Redesigned Procedures, or with any other individual or organization with a demonstrated interest in the undertaking. *See* 36 C.F.R. § 800.2(c)(3), (5). The FAA did not engage these parties at the beginning of its section 106 process, nor did it even share its proposed "No Adverse Effect" finding with these parties at the end of the process. *See id.* §§ 800.4(a)(3), (d)(1). And there is no evidence the FAA provided the public with information about, or sought public comment and input on, the undertaking and its effect on historic properties. *See id.* § 800.2(d). In fact, the evidence shows the opposite is true. *See* James Decl. ¶¶ 26-28; Blouin Decl. ¶¶ 24-26.

By failing to fulfill these consultation requirements, the FAA denied Petitioners their "right to participate in the [section 106] process and object to the FAA's findings" and made it "impossible for the public to submit views on the [Redesigned Procedures'] potential effects—views that the FAA is required to consider." *City of Phoenix*, 869 F.3d at 971. The FAA violated its NHPA obligations, requiring vacatur of the Redesigned Procedures. *See id.* at 971, 975; *see also City of Los Angeles v. Dickson*, No. 19-71581, 2021 U.S. App. LEXIS 20248, at *6 (9th Cir.

July 8, 2021) ("[T]he FAA's admitted failure to consult with [petitioners] violated NHPA, *even if* the FAA properly determined that there would be no adverse impacts on historic properties." (emphasis added)).

ii. *The FAA failed to adequately evaluate the noise impacts of the Redesigned Procedures on historic properties.*

The FAA's failure to adequately consult with the SHPO and local governments infected the core analytical steps required under section 106—namely, defining the area of potential effect, identifying historic properties, and evaluating effects on those properties. *See* 36 C.F.R. §§ 800.4(a), (b)(1), 800.5. These procedural deficiencies are fatal.

First, without consulting the SHPO, the FAA selected an area of potential effect using the noise screening analysis prepared as part of its environmental review. AR02051. As discussed above, the FAA's noise screening analysis was flawed and underreported noise impacts. *Supra*, at 54-55. The FAA's area of potential effect therefore may not cover the entire potentially affected area, and it cannot be determined whether the FAA properly defined the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties. *See* 36 C.F.R. § 800.16(d).

Second, the FAA failed to recognize at least one historic site listed on the National Register of Historic Places as falling within the area of potential effect: the Palm Beach Daily News Building, located at 204 Brazilian Avenue in the Town of Palm Beach and squarely within the area experiencing noise impacts from the Redesigned Procedures. *See* AR02052 (omitting building from list of potentially affected properties); Blouin Decl. ¶¶ 21-23, Ex. J. And although the City, Town, and County have adopted historic preservation regulations and maintain historic registers, *see* James Decl. ¶¶ 18-22; Blouin Decl. ¶¶ 18-21, Ex. J, the record contains no evidence that the FAA accounted for these local frameworks in its analysis or considered properties that are not yet listed in the National Register but are nevertheless eligible for listing. *See* 36 C.F.R. § 800.4(a)(2), (b)(1), (c)(1) (requiring consideration of eligible, but not yet listed, sites and local standards). These are not minor omissions; they prove the FAA failed to consult with local governments and other knowledgeable parties as required.

Third, for those historic properties the FAA *did* identify as potentially affected by the Redesigned Procedures, the FAA conducted a

flawed analysis because it did not adequately consider whether those properties would be affected by noise increases of a lesser magnitude than what the FAA considers "significant."

In its letter to the SHPO describing its "No Adverse Effect" determination, the FAA acknowledged that its typical "significance" threshold for noise impacts "may not be relevant to certain historic sites." AR02050; *see* AR04794. For example, there may be historic properties "where a quiet setting is a generally recognized purpose and attribute." AR04794. The FAA therefore purported to consider properties in areas with lower levels of noise exposure that would experience a "noticeable" (referred to as a "reportable") increase in noise. AR02050.

Yet the FAA's analysis does not explain whether or how it evaluated such impacts to historic properties experiencing "reportable" noise increases. Instead, the Categorical Exclusion Document reduces this analysis to a conclusory statement that the historic sites identified "were architecture related" and that "the expected noise increases would not harm the structures." AR02001. Had the FAA followed NHPA consultation requirements, it would have received information to the

contrary demonstrating that noise impacts in the area do *not* turn solely on physical damage to structures, and that the use and setting of the properties must also be considered. *See* James Decl. ¶¶ 24-25; Blouin Decl. ¶ 23. It also would have learned of the Town's and the City's concerns that prolonged exposure to vibrations from aircraft could damage their historic properties. James Decl. ¶ 25; Blouin Decl. ¶ 23.

Indeed, the agency appears to have incorrectly concluded that there were no affected historic properties within the area of potential effect. But the Norton House lies under the path of the Redesigned Procedures and is a historic property where a quiet setting is a generally recognized purpose and attribute.[14] *See* AR02052 (including Norton House in list of historic places within area of potential effect). A quiet setting is also a

---

[14] *See* Anne Norton House and Sculpture Gardens, National Register of Historic Places Continuation Sheet § 7, at 2 (identifying 35-foot reflecting pool as qualifying characteristic), https://catalog.archives.gov/id/77843513; Ann Norton Sculpture Gardens, The Gardens & Sculptures, https://ansg.org/about/#garden-a (last accessed May 11, 2026) (describing the gardens surrounding the Norton House: "The Gardens . . . represent Ann's commitment to conservation and the *preservation of a quiet retreat* in the midst of a burgeoning city." (emphasis added)).

generally recognized purpose and attribute of the City's historic residential districts, as well as the historic Everglades Club, all of which are now subject to severe aircraft noise. James Decl. ¶ 24; Caler Decl. ¶¶ 5-7. The FAA provides no analysis of noise impacts to the setting or use of these historic properties and districts, or any other identified historic properties. In fact, despite purporting to consider "noticeable" effects, and acknowledging that noise thresholds may not be relevant to determining impacts on certain quiet-setting historic sites, the FAA discussed only "significant" noise impacts. *See* AR02052.

For these reasons, the FAA's determination that the Redesigned Procedures would not have any impact on historic properties is based on conclusory assertions without supporting analysis and must be set aside. *See, e.g.*, *Clark Cnty. v. FAA*, 522 F.3d 437, 441-42 (D.C. Cir. 2008) (conclusory statements do not constitute reasoned decisionmaking).

D. The FAA failed to comply with Section 4(f) and failed to consider the impact of the Redesigned Procedures on park and recreation areas.

Section 4(f) of the Department of Transportation Act calls for "special effort[s] . . . to preserve the natural beauty of the countryside and

public park and recreation lands, wildlife and waterfowl refuges, and historic sites." 49 U.S.C. § 303(a). Federal transportation agencies may approve a project that "uses" one of these "section 4(f) properties" only if there is "no prudent and feasible alternative to using that land" and the agency engages in "all possible planning" to "minimize harm" to the properties. *Id.* § 303(c); *City of Alexandria v. Slater*, 198 F.3d 862, 871 (D.C. Cir. 1999). This prohibition "extends to constructive use," including increased noise. *Cnty. of Rockland v. FAA*, 335 F. App'x 52, 55 (D.C. Cir. 2009); *see also D.C. Fed'n of Civic Ass'ns v. Volpe*, 459 F.2d 1231, 1239 (D.C. Cir. 1971) ("[A] project which respects a park's territorial integrity may still, by means of noise, air pollution and general unsightliness, dissipate its aesthetic value, crush its wildlife, defoliate its vegetation, and 'take' it in every practical sense.").

An action "constitutes a 'constructive use'" if the action would "substantially impair" a section 4(f) property. AR04769-70. "Substantial impairment occurs when the activities, features, or attributes of the resource that contribute to its significance or enjoyment are substantially diminished." AR04770; *see also City of Grapevine v. Dep't of Transp.*,

17 F.3d 1502, 1507 (D.C. Cir. 1994) ("For the purpose of § 4(f), noise that is inconsistent with a parcel of land's continuing to serve its recreational, refuge, or historical purpose is a 'use' of that land."). Critically, when it comes to noise-related use, the FAA cannot unilaterally assess substantial impairment. Rather, agency personnel "*need* to consult with *all* appropriate Federal, state and local officials having jurisdiction over" the relevant Section 4(f) properties when "determining whether project-related noise impacts would constitute a use of" those properties. AR04662 (emphasis added). Further, the FAA "may not approve the use . . . of Section 4(f) property unless a determination is made under [23 C.F.R. § 774.3(a) or (b)]." 23 C.F.R. § 774.3.

Here, there are numerous section 4(f) properties that now lie under the Airport's modified arrival and departure corridors. This includes not only the historic properties identified above, but a number of City- and Town-owned parks and recreation areas, including Westminster Park, Prospect Park, Monceaux Park, George Petty Park, Lake Drive Park, Lake Trail, Memorial Park and Fountain, Phipps Plaza Park, and

Midtown Municipal Beach. James Decl. ¶¶ 10-15; Blouin Decl. ¶¶ 11-16. Yet the FAA failed to comply with these requirements.

i. *The FAA failed to consult with the appropriate local officials when assessing noise-related constructive use.*

The FAA's procedures plainly require that constructive-use determinations involving increased noise be made in consultation with "*all* appropriate Federal, state, and local officials having jurisdiction over" these section 4(f) properties. AR04662 (emphasis added). In the case of the section 4(f) properties identified here, those officials are Paul Brazil and Leah Rockwell. Blouin Decl. ¶ 18; James Decl. ¶ 17. However, there is no evidence that the FAA ever consulted these officials. *Id.*

Moreover, the section of the FAA's Categorical Exclusion Document pertaining to section 4(f) does not refer to the FAA's consultation obligations, document the FAA's efforts to comply, or set forth any rational explanation for the agency's failure to discharge its obligations under section 4(f). *See* AR02002. Given the FAA's indisputable violation of its own section 4(f) procedures, vacatur is warranted. *City of Phoenix*, 869 F.3d at 973-74 (granting petition for review based on the FAA's failure to consult with the appropriate officials regarding section 4(f)

properties, as required by its procedures); *City of Los Angeles*, 2021 U.S. App. LEXIS 20248, at *8 (granting petition for review where (i) "there [was] no evidence that the FAA ever consulted with the Cities regarding the affected section 4(f) properties," and (ii) the FAA "did not acknowledge its section 4(f) consultation obligation" or "explain why it was excused from consulting").

ii. *The FAA relied upon a flawed noise screening analysis and failed to consider and apply the appropriate factors when assessing use.*

In addition to these errors, the FAA failed to consider the appropriate factors for assessing "use" under section 4(f). Again, that inquiry turns on whether an action would "substantially diminish" the "activities, features, or attributes" of the section 4(f) property that "contribute to its significance or enjoyment." AR04769-70. But here, the FAA's cursory finding that constructive use "would not occur" rests solely on "a review of the proposed changes in aircraft location and the noise screening indicating no significant noise increases." AR02002.

The FAA's reliance on a flawed noise screening, *supra* at 54-55, renders its finding of "no significant noise increases" arbitrary and

capricious. The FAA compounded this error by failing to evaluate the specific activities, features, or attributes that contribute to the significance or enjoyment of the City's and Town's section 4(f) properties, including the quiet environment and scenic views those properties provide. Blouin Decl. ¶¶ 13-16; Horn Decl. ¶¶ 5, 7; James Decl. ¶¶ 10-15. Nothing in the FAA's conclusory finding indicates that it considered these factors at all. The agency did not assess how increased aircraft noise would affect the use, setting, or experiential qualities of the City's and Town's section 4(f) properties, nor did it evaluate whether those impacts would substantially diminish the properties' protected characteristics. This omission renders the FAA's constructive-use determination inadequately supported, and its implementation of the Redesigned Procedures was therefore arbitrary and capricious.

Finally, because it failed to determine that the relevant properties would be constructively used, the FAA consequently failed to issue a determination or obtain the requisite approval under 23 C.F.R. § 774.3 for the Redesigned Procedures' constructive use of the 4(f) properties. Because the FAA failed to properly assess constructive use and consult

the required officials, its section 4(f) determination is arbitrary and capricious and must be set aside.

III. VACATUR IS THE APPROPRIATE REMEDY

The sum of the multiple substantive and procedural errors committed by the FAA requires vacatur of the Orders establishing the National Defense Airspace and the Redesigned Procedures.

When an agency's action is unlawful, "vacatur is the normal remedy." *Allina Health Servs. v. Sebelius*, 746 F.3d 1102, 1110 (D.C. Cir. 2014). In "limited circumstances," a court may exercise its equitable powers to depart from the normal rule and remand without vacating the agency's action, but doing so is an "exceptional remedy." *Am. Great Lakes Ports Ass'n v. Schultz*, 962 F.3d 510, 518-19 (D.C. Cir. 2020). To decide whether such an exceptional departure from the norm is warranted, courts consider (1) the "seriousness of the order's deficiencies (and thus the extent of doubt whether the agency chose correctly)" and (2) the "disruptive consequences of an interim change that may itself be changed." *Allied-Signal, Inc. v. U.S. Nuclear Regul. Comm'n*, 988 F.2d 146, 150-51 (D.C. Cir. 1993). Both factors favor vacatur here.

First, the deficiencies of the challenged Orders are serious. The FAA did not and cannot demonstrate why the National Defense Airspace was necessary for the President's safety, and the "24/7/365" prohibition of aircraft over Mar-a-Lago is plainly inconsistent with the FAA's responsibility to "allow *maximum* use of the navigable airspace by civil aircraft consistent with national security." *Supra*, at 32-39. These substantive deficiencies severely undermine the Orders and require vacatur. *N.J. Conservation Found. v. FERC*, 111 F.4th 42, 64 (D.C. Cir. 2024) (vacatur appropriate where deficiencies went to the core of an agency's findings and were unlikely to be cured with more explanation).

Nor can the FAA explain its disregard of applicable procedural requirements. The FAA knowingly violated its obligations to obtain public comment and conduct meaningful review of the National Defense Airspace and the Redesigned Procedures. And there is "substantial doubt" that an informed look at these matters would have resulted in the same outcome. *Standing Rock Sioux Tribe v. U.S. Army Corps of Eng'rs*, 985 F.3d 1032, 1052-53 (D.C. Cir. 2021). Indeed, it is clear from the record that FAA senior staff proposed less burdensome alternatives that

may have accomplished the same objective, but the agency failed to consider them. Vacatur is warranted in such circumstance. *See Env't Def. Fund v. FERC*, 2 F.4th 953, 976 (D.C. Cir. 2021).

Second, the potential for disruption favors vacatur. Petitioners do not challenge the TFRs that customarily apply when the President is in residence. Those will remain undisturbed. And claims that such TFRs are insufficiently protective should be regarded with skepticism, especially when throughout the first Trump Administration—and every other modern administration—they appear to have satisfied security concerns. The Court need not and should not reflexively defer to incantations of national security when they lack support.

Meanwhile, if the Orders remain in effect, Airport operations would continue to be disrupted, and the environmental impacts of aircraft overflying the City's and Town's noise-sensitive areas not previously exposed to aircraft noise would continue unabated, unnecessarily. Vacatur is therefore appropriate.

CONCLUSION

The FAA's establishment of the National Defense Airspace over Mar-a-Lago was not justified on any basis and plainly violated the FAA's statutory obligations and internal procedures. It should be set aside as arbitrary and capricious, not in accordance with law, and otherwise erroneous. Because the Redesigned Procedures were adopted solely (and unnecessarily) to avoid the National Defense Airspace, the Redesigned Procedures are also arbitrary and capricious.

The Redesigned Procedures are also independently arbitrary and capricious and not in accordance with law because they were adopted in violation of the FAA's obligations under NEPA, the NHPA, and Section 4(f). The Petitions for Review should be granted, and the Orders establishing the National Defense Airspace and the Redesigned Procedures should be vacated and remanded to the FAA.

Respectfully submitted June 9, 2026,

/s/ Steven L. Osit
Steven L. Osit
Samantha R. Caravello
Rebecca Glenn
Kaplan Kirsch LLP
1675 Broadway, Suite 2300
Denver, CO 80202
Telephone: (303) 825-7000
sosit@kaplankirsch.com
scaravello@kaplankirsch.com
rglenn@kaplankirsch.com

Counsel for Palm Beach County

/s/ Jeffrey L. Oldham
Jeffrey L. Oldham
Jackson Walker LLP
100 Congress Avenue, Suite 1100
Austin, TX 78701
Telephone: (512) 236-2000
joldham@jw.com

Justin V. Lee
Cody Martinez
Jackson Walker LLP
2323 Ross Avenue, Suite 600
Dallas, TX 75201
Telephone: (214) 953-6072
jlee@jw.com
cmartinez@jw.com

Counsel for Town of Palm Beach and City of West Palm Beach

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the requirements of Fed. R. App. P. 32(a)(5) and (6) because it has been prepared in 14-point Century Schoolbook, a proportionally spaced font.

I further certify that this brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) because it contains 12,911 words, excluding the parts of the brief exempted under Rule 32(f), according to the count of Microsoft Word.

/s/ Steven L. Osit
Steven L. Osit

CERTIFICATE OF SERVICE

I hereby certify that on June 9, 2026, a true copy of the foregoing Joint Petitioners' Brief was served on all parties of record who are registered CM/ECF filers through the appellate CM/ECF system for the United States Court of Appeals for the D.C. Circuit, including:

Rebecca Jaffe
Allen M. Brabender
U.S. Department of Justice
Environment & Natural Resources
Section, Appellate
P.O. Box 7415
Ben Franklin Station
Washington, D.C. 20044

Counsel for Federal Aviation Administration

/s/ Steven L. Osit
Steven L. Osit

ORAL ARGUMENT NOT YET SCHEDULED

Nos. 25-1282; 25-1283; 26-1034; 26-1035 (consolidated)

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

PALM BEACH COUNTY,
a political subdivision of the State of Florida,

Petitioner,

v.

FEDERAL AVIATION ADMINISTRATION

Respondent.

DECLARATION OF LAURA M. BEEBE

I, Laura M. Beebe, declare the following:

1. I am the Airports Director for the Palm Beach County Department of Airports (the "Department"). I swear that the statements set forth in this declaration are true and correct based on personal knowledge, information, and belief. If called as a witness, I could competently testify to the following facts and information.

2. I am aware that Palm Beach County (the "County") has filed petitions for review of certain orders issued by the Federal Aviation Administration (the "FAA") that generally prohibit aircraft from overflying Mar-a-Lago, a private club and resort owned by President Trump east of the Airport, and that modify the arrival and departure procedures at the Airport to route aircraft operating to and from

the Airport away from Mar-a-Lago (collectively, the "Orders"). I submit this declaration in support of the County's opening brief in those legal challenges.

3. I have served as the Airports Director for the Department since January 2019. Prior to serving as Airports Director, I served as the Deputy Director of Airport Business Affairs for the Department. I began my career in 1998 as an Assistant County Attorney representing the Department and other County offices, and I have over twenty-five years of experience in aviation management and law.

4. The County owns the Airport and operates it through the Department.

5. In my current role as Airports Director, I am responsible for all aspects of operating and managing the Airport.

6. Throughout President Trump's first term in office, a Temporary Flight Restriction ("TFR") was established whenever the President was visiting Mar-a-Lago, which generally restricted aircraft from flying over Mar-a-Lago and required general aviation aircraft (i.e., aircraft other than commercial airlines) to be "precleared" by the Transportation Security Administration prior to arrival and departure. No restrictions were in effect when the President was not visiting Mar-a-Lago or surrounding areas.

7. On October 15, 2025, the FAA conducted an informational briefing for airport stakeholders at the Administrative Offices of the Department. At the briefing, the FAA announced it was establishing a permanent flight restriction within a one-

nautical-mile radius of Mar-a-Lago, regardless of whether the President was in residence. The restriction applied to all aircraft, even commercial aircraft, despite the fact that such aircraft follow strict security requirements and operate from the sterile area of the Airport.. The FAA notified the stakeholders it was implementing immediate changes to the arrival and departure procedures at the Airport to avoid routing aircraft over Mar-a-Lago. No explanation was provided for these changes other than the restriction over Mar-a-Lago was requested by the U.S. Secret Service, and the Department was not asked for input regarding the impacts of the restriction prior to its implementation.

8. The FAA later formalized amendments to the arrival and departure procedures at the Airport that avoid routing aircraft over Mar-a-Lago. The County submitted comments on the proposed formal amendments to these procedures, which were acknowledged by the FAA. However, the County was not asked for input or otherwise consulted regarding the design of the amended procedures.

9. The Orders have resulted and will continue to result in direct harm to the County's economic and administrative interests, as I explain below.

Noise Monitoring and Mitigation

10. First, the Orders have caused the County to expend additional resources to monitor and mitigate noise impacts from impacted flights. The County maintains

a robust noise monitoring system to foster partnership with the surrounding community, manage noise expectations, and address noise concerns proactively.

11. The County maintains a noise monitoring platform referred to as the "Noise & Operations Monitoring System," or "NOMS." The NOMS platform consists of two elements: (1) a high-quality aircraft surveillance data system to acquire flight track information; and (2) permanent noise monitoring stations.

12. The County also maintains a public noise hotline to receive public comments and complaints concerning noise resulting from operations at the Airport.

13. The County is concerned about the noise impacts of the Orders, including routing aircraft over properties and communities that have not previously experienced such levels of aircraft noise.

14. As soon as these changes went into effect on October 20, 2025, the Department experienced a substantial increase in noise complaints from the communities surrounding the Airport through the Department's public noise hotline. Since the implementation of the new procedures, the County has received nearly 6,000 complaints, compared to a prior typical average of fewer than a dozen complaints per month.

15. The County expressed its concerns regarding the noise impacts of the Orders in a November 18, 2025, comment letter to the FAA after the FAA had established the restrictions over Mar-a-Lago but before its then-proposed

modifications to the Airport's arrival and departure procedures were finalized and implemented. The FAA acknowledged the County's comment letter, but the FAA did not otherwise engage with the County regarding the Orders' anticipated impacts (despite the County's requests to have such a discussion).

16. The high volume of noise complaints has required County staff and leadership to devote substantial time and resources to investigating and responding to the community's complaints. The Airport has a full-time Noise Abatement Manager on staff, who now dedicates the majority of his time to investigating and responding to complaints associated with impacts of the new TFR.

17. County staff and leadership must also devote increased time to planning and coordinating with affected community members on matters related to noise monitoring and mitigation.

18. I expect these burdens on County staff and leadership to continue as long as the Orders are in effect.

19. The County has also experienced economic injury as a result of the Orders' noise impacts. As described above, the County maintains noise monitors at certain locations throughout the County as part of the NOMS. The NOMS were placed in areas impacted by the historical flight path. The Orders and resulting noise impacts have required the County to incur additional costs associated with the

relocation of the monitors to alternative locations based on the change in the flight path and impacts on to newly or increasingly affected areas.

20. Specifically, the County has incurred consulting and administrative costs associated with identifying appropriate locations for the monitors, coordinating access and rights to install them, and actual installation. Senior Department staff have shifted their priorities to attend several citizen group meetings to gather input on where the monitors should be placed. My staff has also spent time obtaining landowner permission to place the new monitors and coordinating the necessary infrastructure to support the monitors. The County would not have incurred or need to continue incurring these costs if not for the Orders.

21. The County has accepted federal grant funding through the FAA's Airport Improvement Program to fund eligible projects at the Airport. In this role, the County is referred to as the "airport sponsor." Receipt of this funding is conditioned on the County's agreement to certain federally-mandated obligations, commonly referred to as the "FAA grant assurances."

22. One FAA grant assurance relates to ensuring that land use adjacent to or in the immediate vicinity of the Airport is compatible with normal airport operations. This generally requires the County to take appropriate action to restrict uses of land near the Airport that may be incompatible with noise from arriving and departing aircraft. The County has devoted significant resources to complying with

FAA grant assurances regarding compatible land use, including purchasing and insulating homes along the Airport's regular arrival and departure corridors. I anticipate that the County will be required to undertake formal study of the noise impacts associated with the flight procedures, as modified by the Orders, and modify its Noise Compatibility Program pursuant to the procedures described at 14 C.F.R. Part 150. Such study and modification would result in substantial expense to the County.

The Orders and Disruption to PBI Operations

23. The Orders have also disrupted Airport operations to the County's detriment. I am aware of at least one instance in which the Orders caused a flight bound for the Airport to be diverted. I was informed that on March 1, 2026, a JetBlue flight scheduled to land at the Airport was not able to do so because low-visibility conditions prevented the pilot from using the only approaches that were permitted under the Orders, and the U.S. Secret Service would not grant permission for the aircraft overfly Mar-a-Lago. Instead, the flight was diverted to Fort Lauderdale-Hollywood International Airport, about an hour away from the Airport.

24. The diversion of flights has the potential to cause a loss in revenue to the Airport, including landing fees, gate fees, and potential concession revenues from the passengers who would have passed through the terminal if not for the Orders, by effectively preventing flights from landing at the Airport. Additionally,

travelers who had anticipated landing at the Airport are significantly inconvenienced.

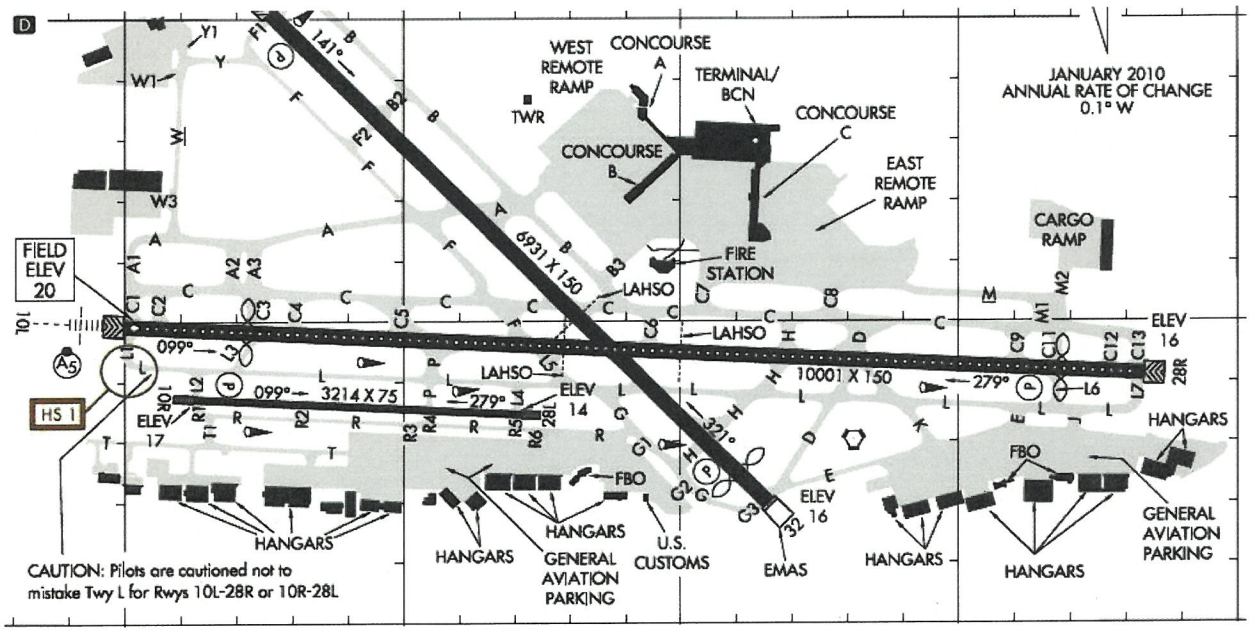
25. If these types of diversions continue to occur due to the Orders, travelers may be less likely to choose the Airport for their flights, resulting in an additional loss of revenue to the Airport.

26. Airlines also consider operational challenges associated with individual airports in making decisions about whether to initiate or increase service at an airport. As I further describe below, the Orders increase the complexity of conducting operations at the Airport, and I am concerned that the resulting unpredictability may impact airlines' choices about how much service to maintain at the Airport, compared to other airports in southeast Florida. The Airport competes for such service with Fort Lauderdale-Hollywood International Airport to the south, which is not burdened by similar restrictions as the Orders.

Runway 10L-28R

27. The Orders have also disrupted the Airport's use of its runways and functionally constrain its capacity. The Airport's airfield is configured with two parallel runways, Runway 10L-28R and Runway 10R-28L, and one crosswind runway, Runway 14-32. The numerical designations of a runway correspond to the direction (in terms of degrees) that it faces, such that Runway 10L faces 100 degrees (east) and, in the other direction, 280 degrees (west). Runway 10L-28R is the

primary east-west runway, measuring 10,001 feet in length, and is the most frequently used runway based on wind conditions. Runway 10R-28L is only 3,214 feet long, and suitable for use only by small general aviation (not airline) aircraft. Runway 14-32 is 6,931 feet long and serves as a crosswind runway oriented northwest–southeast; it is generally used when weather conditions make operations on the parallel runways unsuitable.



Map of PBI, https://aeronav.faa.gov/d-tpp/2605/00449AD.PDF.

28. Runway 10L-28R is by far the Airport's most frequently used and longest runway, accounting for approximately 90% of all arrivals and departures. The changes in procedures render Runway 10L-28R less functional because the procedures impose limitations that make using the runway more difficult, especially in low-visibility situations. Specifically, under the Orders, when planes are arriving

on Runway 28R (landing to the west), aircraft are no longer able to use a straight-in Instrument Landing System ("ILS") approach, and instead must use an Area Navigation ("RNAV") approach that requires them to obtain visual reference to the runway at a higher altitude. An ILS approach is preferred in low-visibility situations because the approach uses instruments on the ground to transmit highly precise lateral and vertical guidance to the pilot. As noted above, the unavailability of an ILS approach has resulted in diversions to other airports during poor-weather conditions and resultant economic injury to the County.

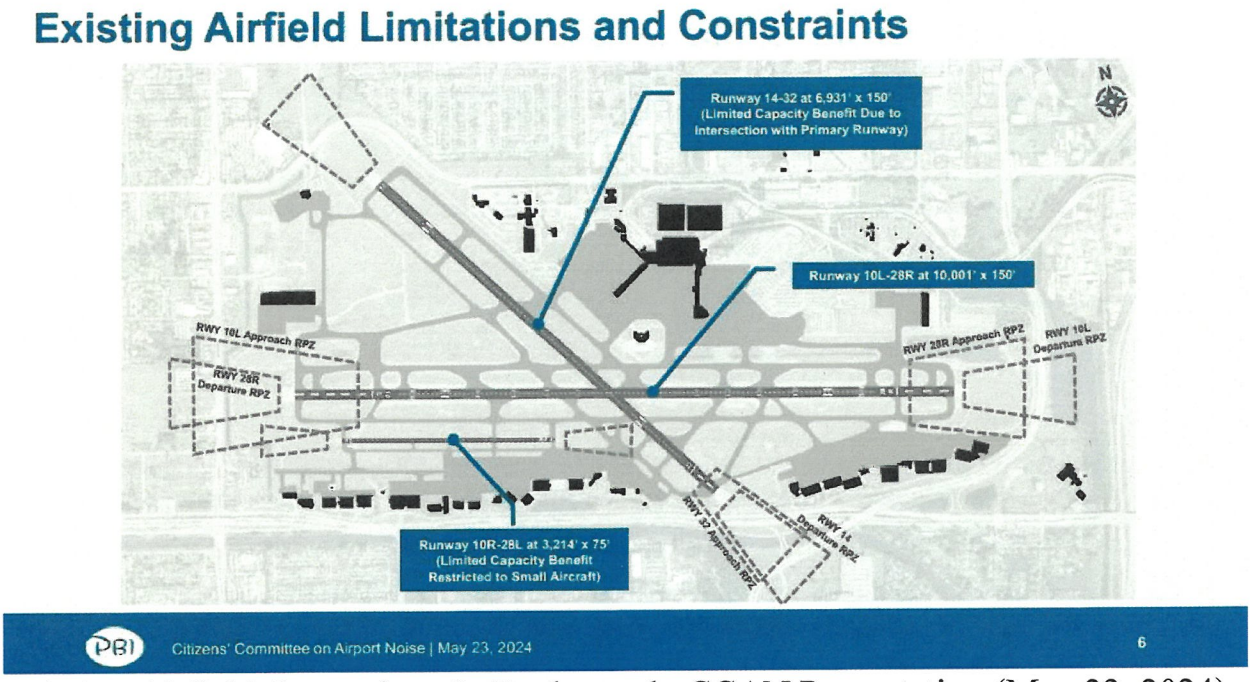
29. In addition to limiting the approaches available for arrivals on Runway 28R, the Orders also effectively shorten the length of the runway that is available for aircraft to use while departing to the east on Runway 10L. By imposing steeper climb gradients so that aircraft gain altitude in a shorter distance to avoid the restricted airspace over Mar-a-Lago, the Orders require aircraft departing from Runway 10L to become airborne at a shorter distance down the runway than would be necessary if the Orders were not in place. This effectively shortens the usable length of Runway 10L-28R.

30. By limiting the Airport's longest runway in this way, the Orders limit the Airport's ability to accommodate certain large aircraft and operate efficiently for the benefit of the public. Nor can the Airport easily address these impacts. Runway 10L is the Airport's most frequently used runway. Runway 14-32 is the crosswind

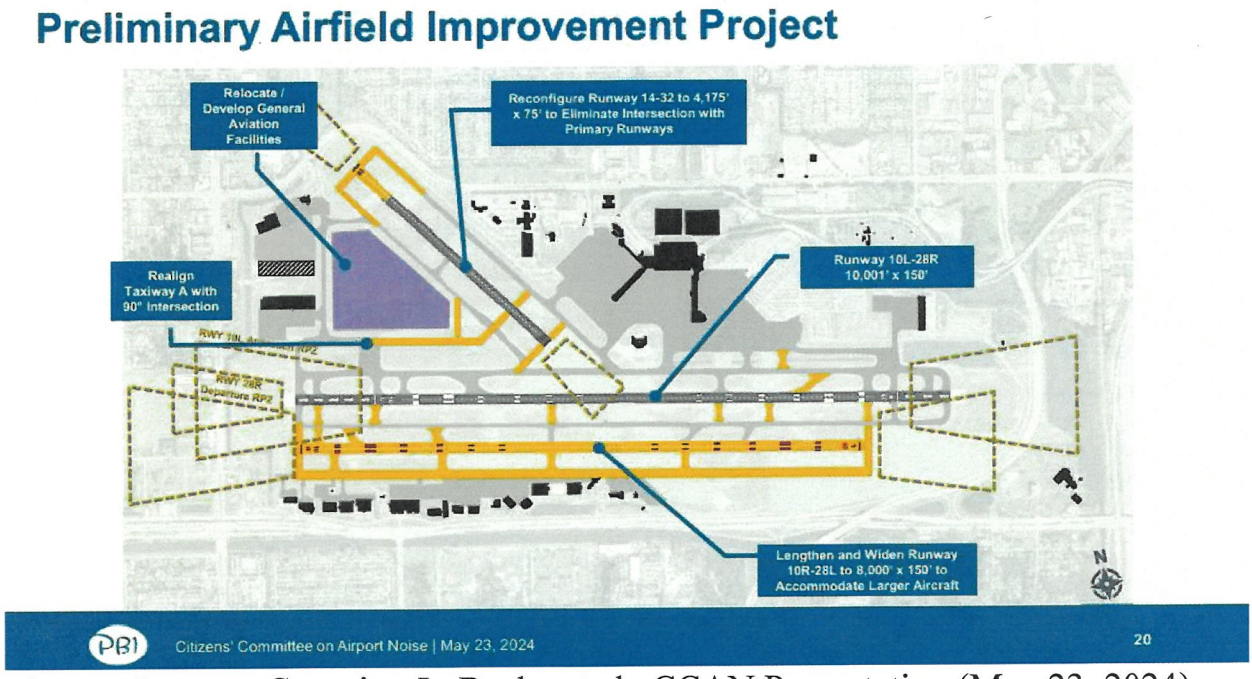
runway and is generally used when weather conditions are not suitable for operations on Runway 10L-28R or when needed for maintenance of Runway 10L-28R. Runway 10R-28L is restricted by its length to smaller general aviation aircraft.

31. The Orders' limitations on the County's use of its own airfield may also impact the County's longstanding efforts to address capacity concerns at the Airport.

32. As a result of the airfield layout, the Airport effectively operates as a single-runway airport. To address this capacity limitation, the Airport's 2018 Master Plan contemplates extending the general aviation Runway 10R-28L to a length that can accommodate air-carrier aircraft. To advance this plan, the Airport engaged airfield planning consultants to conduct an airfield needs assessment and an operations forecast for an extended Runway 10R-28L. The County has already incurred over half a million dollars in connection with preliminary planning for this project. The following slides, which were presented by the County at a public meeting, depict the existing airfield constraints, and the plans to increase airfield capacity.



Existing Airfield Constraints, L. Beebe et al., CCAN Presentation (May 23, 2024).



Plans to Increase Capacity, L. Beebe et al., CCAN Presentation (May 23, 2024).

33. However, Runway 10R–28L runs parallel to Runway 10L-28R, and, if expanded, would experience the same air-carrier aircraft operational limitations as a

result of the Orders. Moreover, because aircraft departing on the east-facing runways must immediately turn north or south to avoid Mar-a-Lago, expanding Runway 10R-28L would not result in the same capacity gains as without the Orders: aircraft departing on Runway 10L could only turn to the north, and aircraft departing on Runway 10R could only turn to the south, otherwise they would be crossing each other's paths. Because of the Orders and the limitations they impose, expanding Runway 10R-28L will be more challenging to implement, due to the need to address potential airspace issues associated with the TFR, and will require additional planning and costs associated with that planning.

34. The Airport has also embarked on a more than $137 million project to increase terminal capacity to accommodate growing demand and increased operations. The first phase of the project is complete and the second phase of construction is currently underway. The two phases provide for expanded restrooms, holdroom seating, two additional aircraft gates and additional concession space. By limiting the Airport's ability to increase its capacity for commercial services, the Orders may cause the Airport to be less competitive for new commercial service, causing passengers to elect to utilize alternative airports for air travel.

35. The Airport has no other practical options for expanding capacity at the Airport. Expanding Runway 14-32 is not a viable alternative for two reasons. First, expanding it would not result in meaningful capacity gains because Runways 10L-

28R and 14-32 will still intersect. Second, Runway 14-32 is bounded by major roadways and existing residential and commercial development, making expansion infeasible. Any alternative plan to increase capacity at the Airport while avoiding the restricted airspace is impractical because it would require construction of an entirely new runway, the acquisition of property, and the relocation of highways, which, if even possible, would require substantially greater financial expenditures than simply extending Runway 10R-28L within the Airport's boundaries.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 5/21, 2026.

Laura M. Beebe
Director of Airports for Palm Beach County

I, Kirk Blouin, declare the following:

1. I am Town Manager for Town of Palm Beach, Florida (the "Town"). This Declaration is based upon my personal knowledge and upon information from business records which are maintained in the ordinary course of business and from entries made therein at or near the time of the events so recorded. I am authorized to testify to the matters herein and, if called as a witness, could competently testify to the following facts and information.

2. I have served as Town Manager since February 2018. Before my appointment to Town Manager, I previously served as the Town's Chief of Police and later the Town's Director of Public Safety. In total, I have spent nearly three decades working for the Town.

3. In my role as Town Manager, I function as the Town's Chief Administrative Officer. In this position I am responsible for the planning, organizing, and directing of the Town's day-to-day operations. This includes appointing and supervising Deputy Town Managers and Department Directors, implementing policies established by the Town Council, recommending actions to the Mayor and Town Council, and preparing and submitting the proposed annual budget and capital

improvement program to the Town Council. In performing these responsibilities, I work closely with the Town Council, department heads, and department employees.

4. As Town Manager and a long-time employee of the Town, I am familiar with the Town's environment, the needs and expectations of its residents, as well as its natural and historic resources.

5. Additionally, I am generally familiar with the FAA's implementation of permanent flight restrictions over The Mar-a-Lago Club in October 2025, including the resulting changes to flight paths at Palm Beach International Airport ("PBI") (collectively, the "Flight Restrictions").

6. The Town is located on a barrier island east of West Palm Beach, Florida in Palm Beach County and covers a land area of approximately 3.77 square miles. Since its incorporation in 1911, the Town has dedicated itself to developing and maintaining its beautiful, historic, and peaceable environment, which the 1929 Town Plan succinctly described as its "charm." To do so, the Town has established a variety of ordinances and strategic initiatives aimed at preserving and protecting its environment and the numerous natural and historic

resources within its geographic boundaries. The Town has established these ordinances and initiatives because preserving the Town's environmental, natural, and historic resources is critical to the health, safety, and welfare of the community. These features also make the Town an attractive destination for tourists, who contribute to its economy.

Environment and Natural Resources

7. The Town is world-renowned for its peaceful environment and natural beauty and has made a concerted effort to preserve these defining characteristics. For example, in its 2024 Comprehensive Plan, the Town identified "Quality of Life" as the plan's "controlling element" and defined that term to include "preservation of our community beauty through its built and natural environment" and "quiet enjoyment of residential property." Maintaining a quiet setting for its residents' neighborhoods is of particular importance to the Town because approximately 70 percent of the Town's land area is residential. In this way, the Town's residential neighborhoods are noise-sensitive areas.

8. In pursuit of these goals, the Town has taken steps like adopting noise ordinances making it unlawful to make any noise that "annoys, disturbs, injures or endangers the comfort, repose, health, peace

or safety of any considerable number of persons." It also adopted a "Green Initiative," which includes ordinances, practices, and programs designed to protect the Town's natural environment. The FAA's actions have upended these efforts.

9. As a result of the Flight Restrictions, a substantial number of low flying aircraft are being diverted over numerous of the Town's noise-sensitive areas and recreational spaces. Residential neighborhoods recognized for their quiet settings, including the residents who live in those neighborhoods, have been subjected—and continue to be subjected—to an onslaught of aircraft noise from early in the morning until late at night.

10. Since the Flight Restrictions were implemented in October 2025, the Town has received a substantial number of complaints from residents related to increased aircraft noise and the negative impact that noise has had on their quality of life, including their enjoyment of their residences. A non-exhaustive selection of these complaints, true and correct copies of which are attached hereto as **Exhibits A–I,** include:

- October 22, 2025: A resident remarked that the "new flight path now sends significant air traffic directly over central Palm Beach" and "impact[s] both the experience of residents, visitors, and property values." This change, the resident stated, "will

alter the character and tranquility of central Palm Beach … with an unending barrage of planes and noise." Ex. A.

- October 24, 2025: A resident of South Ocean Boulevard remarked that the "new flight pattern for PBI air traffic is extraordinarily disruptive to the enjoyment of our town." Ex. B.

- October 27, 2025: A resident of Clarke Avenue remarked that there is "now almost constant 24/7 aircraft noise" and "we cannot use our backyard or pool. We are being driven out of town by noise." Ex. C.

- November 2, 2025: A resident of Australian Avenue remarked that "the airplane noise is unbearable in mid-Town," that planes begin overflights before 6:00 a.m. and continue until after 11:00 p.m., and that the resident's family is awoken by the noise "on a regular basis." Ex. D.

- December 11, 2025: A resident noted that he is subjected to aircraft noise "almost every day" from 6:30 a.m. to 11:00 p.m. and that his backyard and pool "are unusable." Ex. E.

- January 14, 2026: A resident remarked that the altered flight paths are "preventing sleep and diminishing property values." Ex. F.

- April 13, 2026: A resident of Clarke Avenue noted that aircraft noise, which was heard at 6:30 a.m., "is stressful and diminishing our quality of life at home and in the neighborhood" such that "[e]arly swim[s] and [w]alks are not enjoyable." Ex. G.

- May 13, 2026: Residents of El Bravo Way who are "under the diverted flight path" stated that they "suffer 24/7 noise and declining property values." Ex. H.

- May 14, 2026: Residents of Island Drive reported that their "peace and comfort are shattered numerous times an hour by flights flying directly over [their] property at very low altitudes,

> often at two minute intervals." They further stated that they "can no longer enjoy sitting outside" or "having meals on [their] patio," and that "speaking on the phone is virtually impossible." Ex. I.

11. Similarly, visitors at the Town's public parks and recreation areas, which previously provided peaceful solitude and scenic views, are now frequently subjected to loud aircraft noise and visually obstructive overflights. Based on my review and understanding of the revised flight paths, these parks and recreation areas are: Lake Drive Park, Lake Trail, Memorial Park and Fountain, Phipps Plaza Park, and Midtown Municipal Beach (collectively, the "Parks").

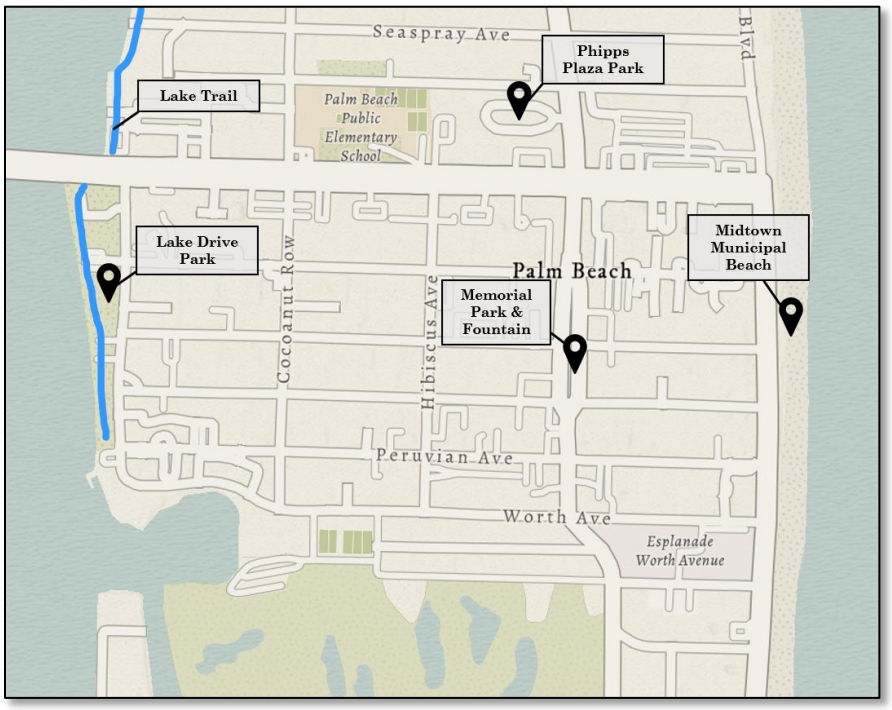


Fig. 1, Locations of Lake Drive Park, Lake Trail (outlined in blue), Memorial Park and Fountain, Phipps Plaza Park, and Midtown Municipal Beach.

12. Lake Drive Park sits within a locally designated and national-register-eligible historic district, the Royal Park Bridge Historic District. The park features numerous benches, open green spaces, and a variety of native plants, including thirteen locally designated historic trees. Additionally, winding pathways that traverse the park allow easy access to the Lake Trail recreational path and the Town Marina on the park's western side.



Fig. 2, Lake Drive Park.

13. Lake Trail is an approximately five-and-a-half-mile-long public recreation trail along the western coast of the Town. One of the trail's significant attributes is the quiet and serene environment it offers for walkers, joggers, and cyclists to enjoy the scenic views of Lake Worth

Lagoon, the Town of Palm Beach Marina, and the City of West Palm Beach.



Fig. 3, Lake Trail.

14. Memorial Park and Fountain sits within a locally designated and national-register-eligible historic district, Town Hall Square Historic District. The park, which was designed by renowned architect Addison Mizner, contains a central reflecting pool lined by walkways, neatly trimmed hedges, and palms. The park's upper terrace is dominated by a large fountain. The park also serves as an area for quiet, contemplative reflection, evidenced by its curved monumental walls that honor the Town's fallen military veterans, police officers, and firefighters. The park and fountain are eligible for inclusion on the National Register of Historic Places.



Fig. 4, Memorial Park and Fountain.

15. Phipps Plaza Park is a century-old public park nestled in Phipps Plaza—a locally designated and national-register-eligible historic district in midtown Palm Beach. The elliptical-shaped central park visually anchors the numerous historic properties in Phipps Plaza and provides the public with a beautiful and quiet retreat. The park contains multiple benches and open green space, and is notable for its diverse and stunning flora—which includes a locally designated historic "shaving brush" tree—as well as its landmark fountain. In 2024, the Town funded a major renovation of the park, which restored its historical features and added pedestrian access points, a bike rack, lighting, vegetation, and new landscape and hardscape designs.

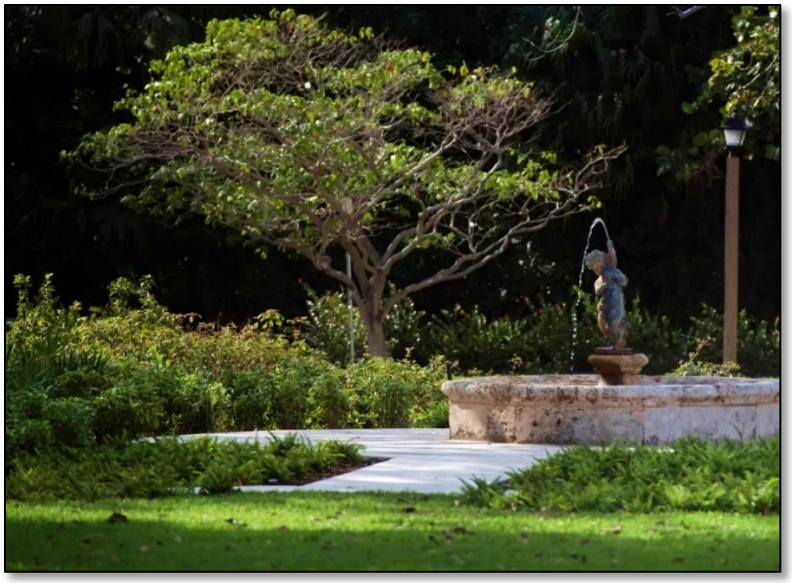


Fig. 5, Phipps Plaza Park.

16. Midtown Municipal Beach is a Town-owned public beach that runs along the island's eastern coast. The beach features a sandy coastline, clear blue water, and an array of marine life, including the endangered sea turtles that frequently lay their nests on the beach. All of these features contribute to the beach's quiet and tranquil environment, which has attracted residents and tourists for decades.



Fig. 6, Midtown Municipal Beach.

17. Having worked in the Town for nearly three decades, I have visited these Parks numerous times and am familiar with their environment both before and after the implementation of the Flight Restrictions. Prior to implementation of the Flight Restrictions, I rarely observed overflights or heard loud aircraft noise at the Parks. That is no longer the case. Since the Flight Restrictions were implemented, the beautiful views that the Parks provided are now marred by the sight of constant streams of aircraft. Moreover, the Parks' tranquil and quiet environments are now routinely interrupted by the sound of aircraft engines that is so loud that face-to-face conversation is nearly impossible.

18. The Parks are under the jurisdiction of the Town's Public Works Department, which is overseen by the Director of Public Works

Paul Brazil. The FAA did not consult with Mr. Brazil in identifying any parks or recreation areas that could potentially be impacted by the Flight Restrictions. Nor did the FAA consult with Mr. Brazil in analyzing the effect that those restrictions (including resultant noise increases) would have on the Town's parks and recreation areas. The FAA's failure to consult on these important matters impairs the Town's long-standing interest in preserving its environment and natural resources.

Historic Resources

19. The Town is steeped in history and has gone to great lengths to preserve and protect its vibrant and unique historic resources.

20. For example, in 1979, the Town adopted a Landmarks Preservation Ordinance, which sought to, among other things, "[e]ffect and accomplish the protection, enhancement and perpetuation of" the Town's historic resources and to "[s]afeguard" the Town's "historic and cultural heritage, as embodied and reflected in such landmarks and historic districts." To carry out this mandate, the ordinance permits the designation of "landmarks," "landmark sites," and "historic districts;" affords those properties or areas robust protections from alteration or demolition; and vests enforcement authority in the Landmarks

Preservation Commission. The Town expanded these protective efforts in 2002 when it adopted another preservation ordinance permitting the designation of "historic conservation districts" and "historically significant buildings."

21. Many of the Town's precious historic resources now sit directly under the revised flight paths. As a result, these resources have been continuously exposed to increased noise, vibrations, and visual effects from the significant increase in overflights. Attached as **Exhibit J** is a true and correct list of 44 sites that are either listed or eligible for listing on the National Register of Historic Places and now sit under the revised flight paths. The list of properties was compiled by the Town using GIS mapping and information from the Town's Planning, Zoning, and Building Department, including a comprehensive historic site survey.

22. Prior to the implementation of the Flight Restrictions, these historic sites were rarely subject to any overflights or loud aircraft noise. Now, however, aircraft are constantly observed flying over these sites as early as 6:00 a.m. and as late as 11:00 p.m. Additionally, because these

aircraft are flying so low, they generate constant and extremely disruptive noise that permeates these historic sites.

23. The Town is concerned that vibrations caused by the severe aircraft noise could, over time, adversely impact the structural integrity or architectural features of the Town's historic sites. This concern is particularly acute given that the Flight Restrictions will continue diverting flights over historic sites every day for at least the remainder of President Trump's term. This would jeopardize the efforts the Town has taken to preserve its historic resources.

24. Prior to implementing the Flight Restrictions, the FAA did not contact the Town for information on its historic properties (including their sensitivity to increased aircraft noise, vibrations, and other impacts associated with low-flying aircraft) so that it could evaluate the impact of increased overflights on the Town's historic resources. Nor did the FAA seek public comment and input from the Town's residents.

25. I understand that in January 2026 the FAA ultimately determined that the Flight Restrictions would have no adverse effect on the Town's historic resources. The FAA never notified the Town of this

finding, and did not provide the Town with any supporting documentation or an opportunity to object to that finding.

26. To this date, the FAA has not consulted with the Town regarding the flight restrictions' effects on the Town's historic resources.

27. The FAA's failure to consult with the Town regarding the effects of the Flight Restrictions on its historic resources impairs the Town's long-standing interest in protecting those resources.

28. In summary, the FAA's failure to properly evaluate—or consult with the Town regarding—the environmental impact of the Flight Restrictions has harmed the Town's interest in protecting and preserving its environment, as well as its natural and historic resources.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 1, 2026.

Kirk Blouin

EXHIBIT A

From: Kathryn Harper <kathrynharper@gmail.com>
Sent: Wednesday, October 22, 2025 8:34 AM
To: Public Comment <publiccomment@townofpalmbeach.com>
Subject: Concern Regarding New PBI Flight Path and Mar-a-Lago No-Fly Zone

******STOP: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.******

Hello,

As a Palm Beach resident I'm reaching out regarding the recent changes to the Palm Beach International (PBI) flight paths. It appears that the no-fly zone around Mar-a-Lago has now been made **permanent**, rather than applying only when former President Trump is in residence. As a result, all airport traffic has been **re-routed over the area from Worth Avenue to The Breakers.**

While the news reports this as a temporary, one-year measure, Craig Delegato, Head of Noise Abatement at PBI, confirmed to me yesterday that it is actually planned to continue for **at least three years—through the end of Trump's term—and may even become indefinite.**

I wanted to bring this to your attention because this new flight path now sends significant air traffic directly over central Palm Beach, impact both the experience of residents, visitors, and property values. I'm hoping that community members with influence, such as yourself, can help **encourage local and federal officials** to revisit and reverse this decision.

This change will alter the **character and tranquility** of central Palm Beach—from Worth Avenue to The Breakers and The Royal—with an unending barrage of planes and noise.

In addition, this new route directs aircraft **directly over the upper and lower campuses of PBDA**, where many local families children attend school—creating constant noise disruption for students and staff alike.

We can all agree that the safety of the president is paramount. However, the **no-fly zone should only apply during periods of residence**, not as a standing restriction that diminishes the quality of life for the entire community.

Warmly,
Kathryn Bauman

EXHIBIT B

From: anthony williams <flickercottage@icloud.com>
Sent: Friday, October 24, 2025 1:52 PM
To: Public Comment <publiccomment@townofpalmbeach.com>
Subject: New FAA Regulations

******STOP: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.******

A quick note to the Mayor and Town Council to express my gratitude for your tireless work and to express my grave concern regarding the new FAA regulations.
The new flight pattern for PBI air traffic is extraordinarily disruptive to the enjoyment of our town.
I think we can all accept and understand the need to divert air traffic when the President *is in residence* at Mar a Lago.
However there has not been an adequate explanation from the FAA or Secret Service as to why this air traffic pattern is now altered while Mr. Trump is in Washington DC or out of the country.
My fear- this is the beginning of a long range, highly calculated attempt to *permanently* divert air traffic over our town.
Please let me know how I can assist you in our effort to correct this annoyance.

Tony Williams
400 South Ocean Blvd., PH-A
Palm Beach, FL 33480

EXHIBIT C

-----Original Message-----
From: Bob Josephberg <bob@nhcorp.com>
Sent: Monday, October 27, 2025 10:23 AM
To: Public Comment <publiccomment@townofpalmbeach.com>
Cc: Sheila Josephberg <SHEJO64@GMAIL.COM>; Town Council <TCouncil@TownofPalmBeach.com>; Bobbie Lindsay <BLindsay@TownofPalmBeach.com>; Palm Beach Advocate <johncorey84@gmail.com>
Subject: No fly zone -HELP!

******STOP: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.******

HELP! 2-1/2 years of construction noise from next door and now almost constant 24/7 aircraft noise. We cannot use our backyard or pool. We are being driven out of town by noise. Security Protocol when he is at home is reasonable. Security Protocol when he is not home is unreasonable. Do what you can. Litigate if necessary. I never get a response from anyone to these emails, but thanks anyway.
Respectfully, Sheila & Bob Josephberg

Robert H. Josephberg
313 Clarke Avenue

_____

"This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of the message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. Although we attempt to sweep e-mail and attachments for viruses, we do not guarantee that either are virus-free and accept no liability for any damage sustained as a result of viruses. If you have received this e-mail in error, please notify the sender immediately, and delete the message along with any attachments".

EXHIBIT D

From: Kelly Churney <KChurney@TownofPalmBeach.com>
Sent: Monday, November 3, 2025 10:40 AM
To: Public Comment <publiccomment@townofpalmbeach.com>
Subject: FW: Mar a Lago Flight Path Change - Message for Alexander Ives

Kelly Churney, CMC
Town Clerk

Town of Palm Beach
360 South County Road
Palm Beach, FL 33480
561-838-5416

Town Clerk's Office

From: Nevin Bauman <nevinbauman@icloud.com>
Sent: Sunday, November 2, 2025 9:56 PM
To: Town Clerks Staff <TownClerk@townofpalmbeach.com>
Subject: Mar a Lago Flight Path Change - Message for Alexander Ives

******STOP: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.******

Hi Alex,
Please see a letter that my wife wrote to Town Council regarding the Mar a Lago Flight Restrictions.

As I am sure you are aware the airplane noise is unbearable in mid-Town. The planes start before 6am and continue past 11pm. The noise wakes up my wife and our young children on a regular basis.

We would appreciate anything you can do.

Best,
Nevin

We need

> As a Palm Beach resident I'm reaching out regarding the recent changes to the Palm Beach International (PBI) flight paths. It appears that the no-fly zone around Mar-a-Lago has now been made **permanent**, rather than applying only when former President Trump is in residence. As a result, all airport traffic has been **re-routed over the area from Worth Avenue to The Breakers.**

While the news reports this as a temporary, one-year measure, Craig Delegato, Head of Noise Abatement at PBI, confirmed to me yesterday that it is actually planned to continue for **at least three years—through the end of Trump's term—and may even become indefinite.**

I wanted to bring this to your attention because this new flight path now sends significant air traffic directly over central Palm Beach, impact both the experience of residents, visitors, and property values. I'm hoping that community members with influence, such as yourself, can help **encourage local and federal officials** to revisit and reverse this decision.

This change will alter the **character and tranquility** of central Palm Beach—from Worth Avenue to The Breakers and The Royal—with an unending barrage of planes and noise.

In addition, this new route directs aircraft **directly over the upper and lower campuses of PBDA**, where many local families children attend school—creating constant noise disruption for students and staff alike.

We can all agree that the safety of the president is paramount. However, the **no-fly zone should only apply during periods of residence**, not as a standing restriction that diminishes the quality of life for the entire community.

Nevin Bauman
Bauman Group, Inc.
339 Australian Ave
Palm Beach, FL 33480
Ph. (561)385-5426
nevinbauman@me.com

EXHIBIT E

-----Original Message-----
From: Bobbie Lindsay <BLindsay@TownofPalmBeach.com>
Sent: Friday, December 12, 2025 4:21 PM
To: Bob Josephberg <bob@nhcorp.com>
Cc: Town Council <TCouncil@TownofPalmBeach.com>; Public Comment <publiccomment@townofpalmbeach.com>
Subject: Re: Palm Beach County challenging FAA flight restrictions over Mar-a-Lago

Sent from my iPhone
561-797-9405

> On Dec 11, 2025, at 4:26 PM, Bob Josephberg <bob@nhcorp.com> wrote:
>
> ******STOP: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.******
>
> Why is the Town council ignoring the aircraft noise issue? Join the lawsuit. Be aggressive. The President will push to make this policy permanent to protect Mara Largo at our expense. Road's are closed but hundreds of strangers attend events at Mara Largo. Air space is closed but residents and businesses bear the burden. Almost every day from 6:30AM to 11PM at my house. My back yard and pool are unusable. Please do something.
> Respectfully, Bob Josephberg
>
> https://urldefense.proofpoint.com/v2/url?u=https-3A__www.palmbeachpost.com_story_news_trump_2025_12_11_palm-2Dbeach-2Dcounty-2Dfaa-2Dflight-2Drestrictions-2Dmar-2Da-2Dlago_87686597007_&d=DwIGaQ&c=euGZstcaTDllvimEN8b7jXrwqOf-v5A_CdpgnVfiiMM&r=0SdsdJ1XEkjEZ0G5wFT0atmKg-VVafT59lBRjocjr2c&m=fFoETjhPEvJHotHYVYCDy30Gu701BKhqMSy1uwEKqIVdzvicYdR_0z84FvqqLwH3&s=1AH-FFjlkA4qJrm-1L5MG1w1OH5I1_veqGNBP4wPtSI&e=
>
> Robert H. Josephberg
> Clarke Avenue
> HibMr Josephberg. The town is in the process of filing its own lawsuit. The county did not wish us to join its lawsuit but West Pam Beach may consider joining us. The deadline for filing is next Wednesday , not today as was rumored. Best, Bobbie
>
>
>
>
>
>
>
>
>
>
> _____
>

> “This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of the message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. Although we attempt to sweep e-mail and attachments for viruses, we do not guarantee that either are virus-free and accept no liability for any damage sustained as a result of viruses. If you have received this e-mail in error, please notify the sender immediately, and delete the message along with any attachments”.

EXHIBIT F

From: orator woodward <oratorw@yahoo.com>
Sent: Wednesday, January 14, 2026 5:10 PM
To: Danielle Hickox Moore <DMoore@TownofPalmBeach.com>; Town Council <TCouncil@TownofPalmBeach.com>
Subject: Move the Airport

******STOP: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.******

The only solution that will get any attention from the SS and FAA is to publicly demand that the PBI airport should be moved further north and west, to a less populated area. The Faa in an effort to please our president has not answered the lawsuit initiated by the County and has made the flight path permanent from temporary.
The Town Council was successful in changing the road closure. Can the Town Council apply the same arguments to return the flight path to what it was.?
There must be some way to put pressure on Mar A Lago. For example, Is there a license as a private club that must be renewed?
This flight path is preventing sleep and diminishing property values.
The Town Council must take further action.
Sincerely, Orator Woodward

EXHIBIT G

-----Original Message-----
From: Bob Josephberg <bob@nhcorp.com>
Sent: Monday, April 13, 2026 6:20 AM
To: Palm Beach City Town Council <tcouncil@townofpalmbeach.com>; Palm Beach City Public Comment <publiccomment@townofpalmbeach.com>
Subject: Aircraft noise

******STOP: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.******

6:30AM and constant aircraft noise is stressful and diminishing our quality of life at home and in the neighborhood. Early swim and Walks are not enjoyable. Help!

Robert H. Josephberg
Clarke Avenue, Palm Beach

_____

“This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of the message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. Although we attempt to sweep e-mail and attachments for viruses, we do not guarantee that either are virus-free and accept no liability for any damage sustained as a result of viruses. If you have received this e-mail in error, please notify the sender immediately, and delete the message along with any attachments”.

EXHIBIT H

From: lew crampton <lewcrampton@gmail.com>
Sent: Wednesday, May 13, 2026 8:55 PM
To: Leigh failing <leighfailing@gmail.com>; lew crampton <lewcrampton@gmail.com>; David Skok <david@skok.com>; Ray Celedinas <ray.celedinas@gmail.com>; Coleman, C. Payson <payson.coleman@pillsburylaw.com>; Kirk Blouin <KBlouin@TownofPalmBeach.com>; O'Connor, Joanne M. <joconnor@jonesfoster.com>; Harvey E. Oyer, III <HOyer@shutts.com>; Kathryn Harper <kathrynharper@gmail.com>; Nevin Bauman <nevinbauman@icloud.com>; Elizabeth Wetherell <elizabethwetherell@me.com>
Cc: Town Council <TCouncil@TownofPalmBeach.com>; Danielle Hickox Moore <DMoore@TownofPalmBeach.com>
Subject: Re: Logic of the Road vs. the Sky: Restoring Flight Paths during the Mar-a-Lago Off-Season

******STOP: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.******

Leigh,

I've received your email about the flight paths and the South County Road reopening. Thank you for sending it and you should know that the Council is acting with one accord on this matter.

At both today's and yesterday's Council meetings I moved for an agreement to proceed with a further inquiry to the FAA/SS regarding a return to the October 2025 status quo regarding the TFRs during the summer while the President is not here. If it is safe for the road to reopen, the same calculation regarding the President's security should apply to FAA/SS overflight policy decisions. David's letter -- seconded by supporting letters from Ray Celidenas and Payson Coleman -- was a part of the source material for this request.

Mayor Moore has agreed to move forward and to pursue the matter diligently. I will work with her as best I can in my capacity as the Town's representative on the airport's noise committee.. The entire Council endorses this initiative and we will follow it as robustly as possible.

Best wishes

--Lew

On Wed, May 13, 2026 at 7:46 PM Leigh failing <leighfailing@gmail.com> wrote:

> Dear Mayor Moore, Lew, and Members of the Town Council,
>
> **Mar-a-Lago is now closed for the season, and as a result, South**

County Road has been reopened.

I want to thank the Council for its work in getting that road open to traffic again. However, the reopening of that road highlights a glaring and indefensible double standard regarding our airspace:

- **The "Ground vs. Air" Contradiction:** By reopening South County Road, the Town and the Secret Service have officially signaled that the security risk to the President is negligible while he is not in residence. If it is safe for thousands of cars to pass within feet of the club's walls, there is no credible security justification for forcing commercial jets to maintain a 1.2-mile diversion.

- **The 15-Second Math:** Aviation

experts have confirmed that at standard takeoff speeds, this diversion only provides a **15-second buffer**. As a Council, you are aware that no security response—ground or air—can be mounted in 15 seconds. This indicates that the TFR isn't a safety measure; it is "security theater" that happens to fulfill a 30-year personal goal of the President to move these flight paths.

- **Our Quality of Life:** While the Town of Palm Beach enjoys the reopening of its main thoroughfare, those of us under the diverted flight path continue to suffer 24/7 noise and declining property values. We should not have to sacrifice our peace for a

"security" measure that the Secret Service has already deemed unnecessary on the ground.

I am asking the Town Council to take a formal stand. As the local governing body that interacts directly with the Secret Service and the FAA regarding Mar-a-Lago's footprint, I urge you to send a formal inquiry to the FAA Administrator. Please ask them to explain why—if the ground risk is low enough to open South County Road—the aerial TFR cannot be seasonally suspended until the President returns.

We need the Town to lead on this. If the ground is safe, the air should be too.

I look forward to hearing how you plan to address this discrepancy at the next Council meeting.

Best regards,

Leigh & Bruce Failing
221 El Bravo Way
Palm Beach, FL 33480

561 252-9290

--
Payson Coleman
paysoncoleman@gmail.com
mobile 516 713-8777

EXHIBIT I

-----Original Message-----
From: Yvonne Kazeminy <yvonne@njkholding.com>
Sent: Thursday, May 14, 2026 10:08 PM
To: Town Council <TCouncil@TownofPalmBeach.com>
Subject: Flight Path

******STOP: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.******

Dear Town Council Members,

Since President Trump has moved north and the Mar a Largo Club is now closed for the summer, why are we still experiencing multiple flights hourly over our homes.

We live on Island Drive and our peace and comfort are shattered numerous times an hour by flights flying directly over our property at very low altitudes, often at two minute intervals. We can no longer enjoy sitting outside, having meals on our patio and speaking on the phone is virtually impossible.

We do understand that, for safety reasons, it may be necessary to redirect air traffic while the president is in residence but see no reason why we all should suffer when he's not here and his club is closed for the next several months.

Therefore, we respectfully request that you petition the Federal Aviation Authority to revert to the previous flight paths where aircraft were fanned out over the entire area.

Many thanks
Nasser and Yvonne Kazeminy

Sent from my iPhone

EXHIBIT J

Properties Listed on the National Register of Historic Places

Site Name	Street Address
Palm Beach Daily News Building	204 Brazilian Avenue
Palm Beach Town Hall	360 S County Road
Via Mizner	337-339 Worth Avenue
Vineta Hotel	363 Cocoanut Row

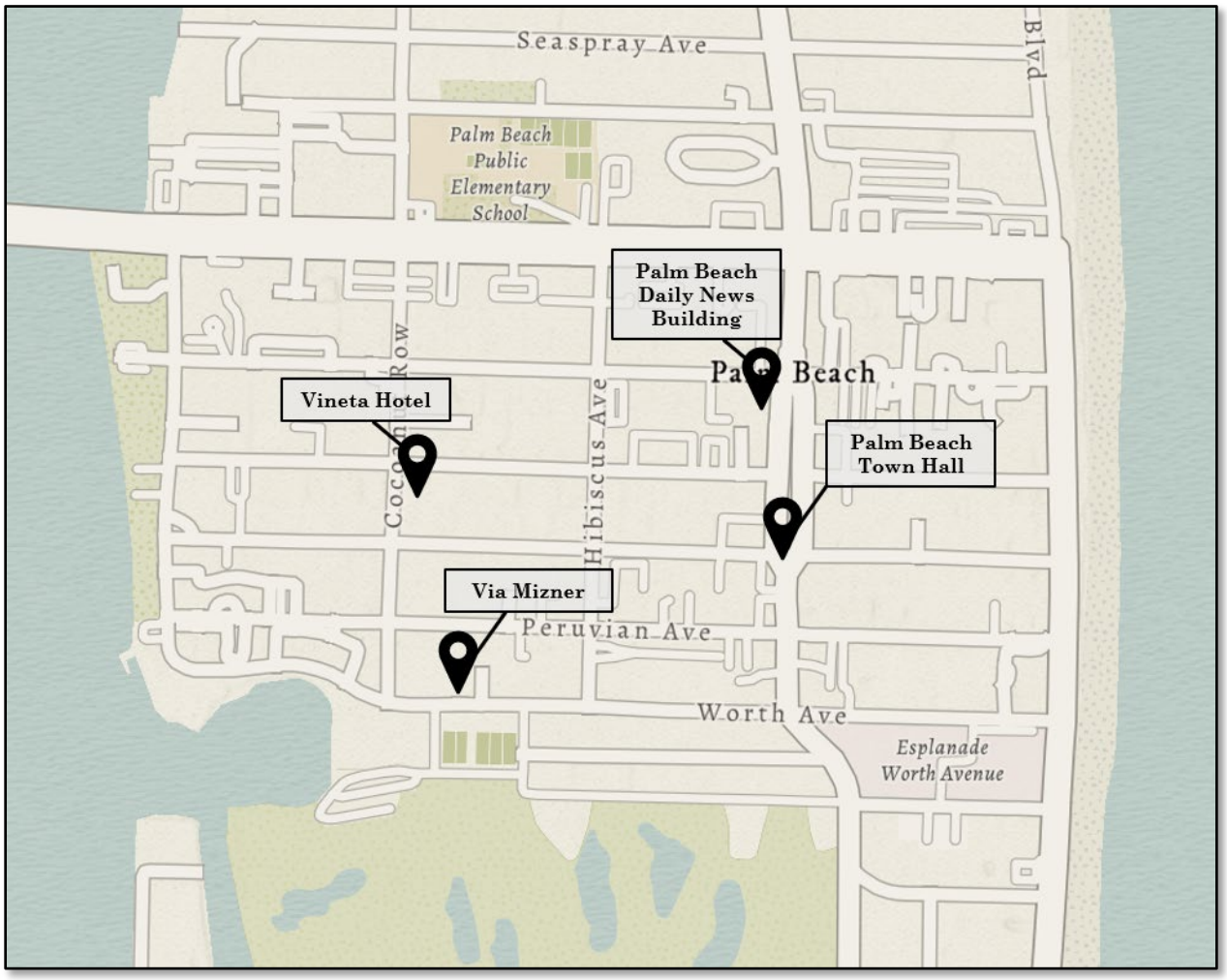


Fig. 1, Map of properties listed on the National Register.

Properties Eligible for Inclusion on the National Register of Historic Places

Site Name	Street Address
Everglades Club	356 Worth Avenue S
Reed, Andover Building*	296-302 S County Road W
332 South County Road*	332 S County Road
Rosseau, L Building*	336 S County Road W
Saleeby, S Building*	359 S County Rd E
The Church Mouse Building*	376 S County Rd
Hals Realty Association Building*	411 S County Rd E
Low, K P & S T House*	577 S County Road E
Frelinghuysen, Peter House	88 Middle Road W
Bove, M J III Tr House*	200 El Bravo Road S
Rasmussen House*	201 El Bravo Way
Pecori, Helen House*	19 Golfview Road S
Colony Hotel	135 Hammon Avenue N
20 Middle Road*	20 Middle Road W
22 Middle Road*	22 Middle Road W
Soter, W J House*	198 Via Marina S
Gallery Place Condo*	175 Worth Avenue
1st Union National Bank*	255 S County Road E
Power-Love Associates Building	256 Worth Avenue
Aperretar, S A	196 Banyan Road S
175 Brazilian Avenue*	311 S County Road E
Lewis Pharmacy	221 Royal Palm Way N
Palm Way Building*	290 S County Road W
Mizner Fountain, Memorial Park	360 S County Road
Palm Beach Historical Inn	365 S County Road E
Ortiz-Patino House*	598 S County Road E
130 El Brillo Way*	130 El Brillo Way S
200 El Brillo Way*	200 El Brillo Way
201 El Brillo Way	201 El Brillo Way
137 El Vedado Road*	137 El Vedado Road N
Palm Beach Public School*	240 Cocoanut Row
Palm Beach Junior High School*	240 Cocoanut Row
Palm Beach Junior High School Auditorium*	240 Cocoanut Row
Three 50 Realty Corp Building	350 S County Road W
310 South County Road Building*	310 S County Road W
Frank Ramsey House*	485 S County Road W
Cafe L'europe*	331 S County Road E
El Patito Feo	505 S County Road E

515 South County Road*	515 S County Road E
Elephant Walk	109 Jungle Road N

* Eligible for inclusion on the National Register as part of a district.

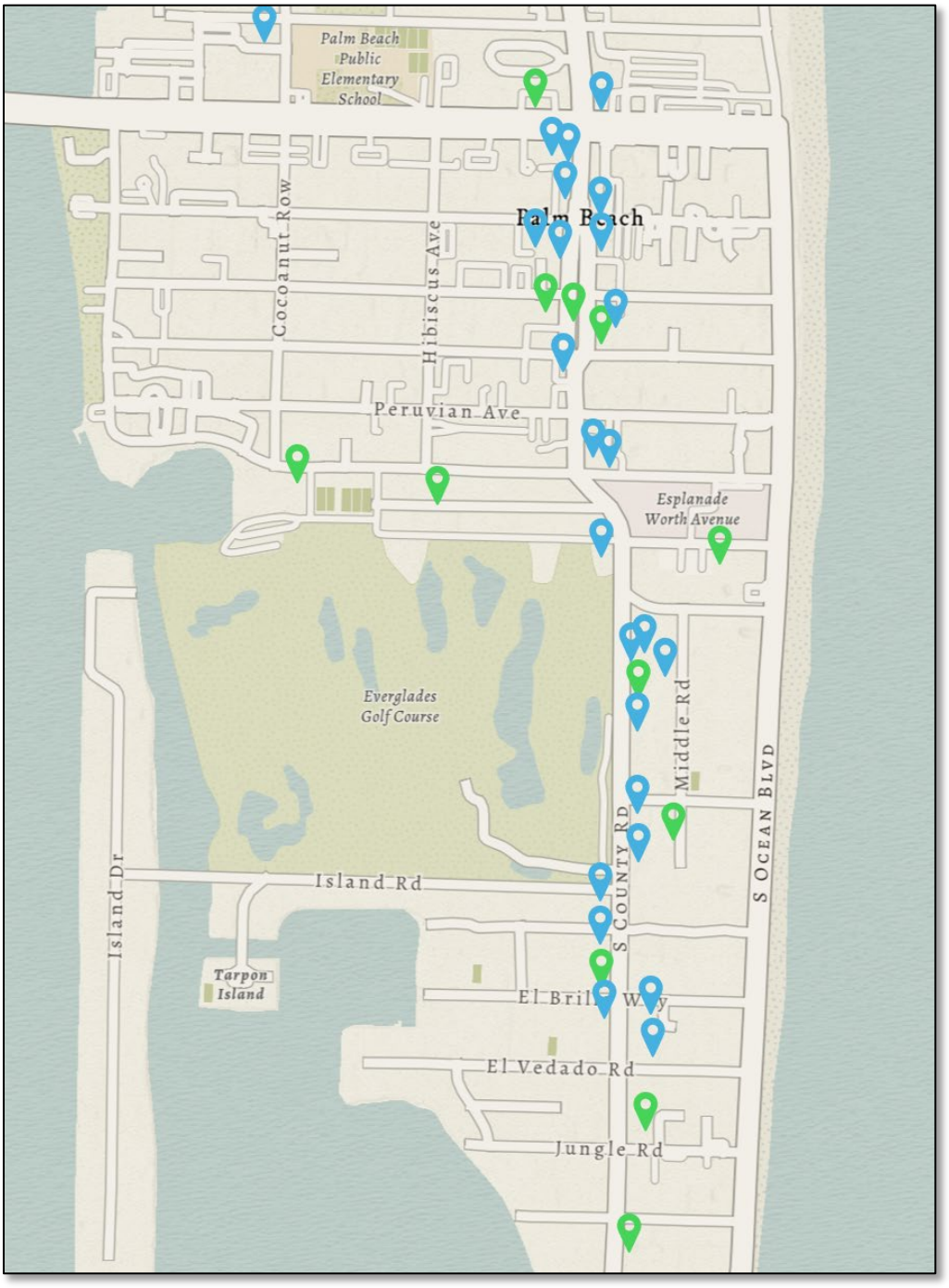


Fig. 2, Properties eligible for inclusion on the National Register (individually eligible properties in green; district eligible properties in blue).

I, Keith A. James, declare the following:

1. I am the Mayor of the City of West Palm Beach, Florida (the "City"). This Declaration is based upon my personal knowledge and upon information from business records which are maintained in the ordinary course of business and from entries made therein at or near the time of the events so recorded. I am authorized to testify to the matters herein and, if called as a witness, could competently testify to the following facts and information.

2. I have served as Mayor since 2019. Before becoming Mayor, I served as the District 4 City Commissioner from 2011 to 2019. In total, I have over 15 years of experience working for municipal government.

3. As Mayor, I serve as the Chief Executive Officer and Administrative Head of the City of West Palm Beach responsible for the proper administration and conduct of the executive work and affairs of the City. In this role I direct and supervise the administration of all City departments, divisions, and agencies of the City except where otherwise provided by charter or by law.

4. As a long-time resident of the City, I am familiar with the City's environment, as well as its natural and historic resources.

5. Additionally, I am also generally familiar with the FAA's implementation of permanent flight restrictions over the Mar-a-Lago Club in October 2025, including the resulting changes to flight paths at Palm Beach International Airport ("PBI") (collectively, the "Flight Restrictions").

6. The City is located on the southeastern coast of Florida and is the county seat of Palm Beach County. Since its incorporation in 1894, the City has established a variety of ordinances and strategic initiatives aimed at preserving and protecting its environment and the numerous natural and historic resources within its geographic boundaries. The City has established these ordinances and initiatives because preserving the City's environmental, natural, and historic resources is critical to the health, safety, and welfare of the community and to the City's economy, which relies heavily on tourism. Indeed, the City has real concerns that the disruption caused by the Flight Restrictions, as outlined below, will deter tourists from traveling to the City.

Environment and Natural Resources

7. The City has demonstrated a commitment to maintaining its environment and its natural resources. This commitment is manifested

by the City's adoption of comprehensive environmental ordinances. As relevant here, these ordinances include robust noise-control regulations which aim to "protect, preserve, and promote the health, safety, welfare, peace and quiet" of the City's residents by preventing "any noise which unreasonably disturbs, injures, or endangers" those residents' "comfort, repose, health, peace, or safety."

8. This commitment is also manifested by the City's adoption of various programs and initiatives to protect its natural resources and parkland. This includes: the City's "Keep West Palm Beach Beautiful" program, which seeks to nurture the City's green spaces for the benefit of the community and environment; its sustainability focused "Rethink Paradise" initiative which aims to protect the City's natural resources; and the $30 million bond package that the City approved in 2020 to improve and renovate its numerous parks. The FAA's actions have upended these efforts.

9. As a result of the Flight Restrictions, a substantial number of low-flying aircraft are being diverted over numerous of the City's noise-sensitive areas and parks. Once peaceful residential neighborhoods—including the El Cid, Flamingo Park, and Mango Promenade Historic

Residential Districts—are now subjected to an onslaught of aircraft noise from early in the morning until late at night. The City has fielded numerous complaints from its residents related to these overflights. This includes complaints of aircraft noise, soot deposits from aircraft engines, gas fumes, and lower property values all of which have been caused by the Flight Restrictions.

10. Similarly, visitors at the City's public parks, which previously provided a quiet environment and scenic views, are now frequently subjected to loud aircraft noise and visually obstructive overflights. Based on my review and understanding of the revised flight paths and personal experience, these parks are: Westminster Park, Prospect Park, George Petty Park, and Monceaux Park (collectively, the "Parks").

11. The Parks all sit within the Prospect Park–Southland Park Historic District. These Parks, each embedded within historic residential neighborhoods, provide communal gathering spaces that are vital for fostering a strong sense of connection. A significant attribute of these Parks is the peaceful and quiet environment they provide to visitors.

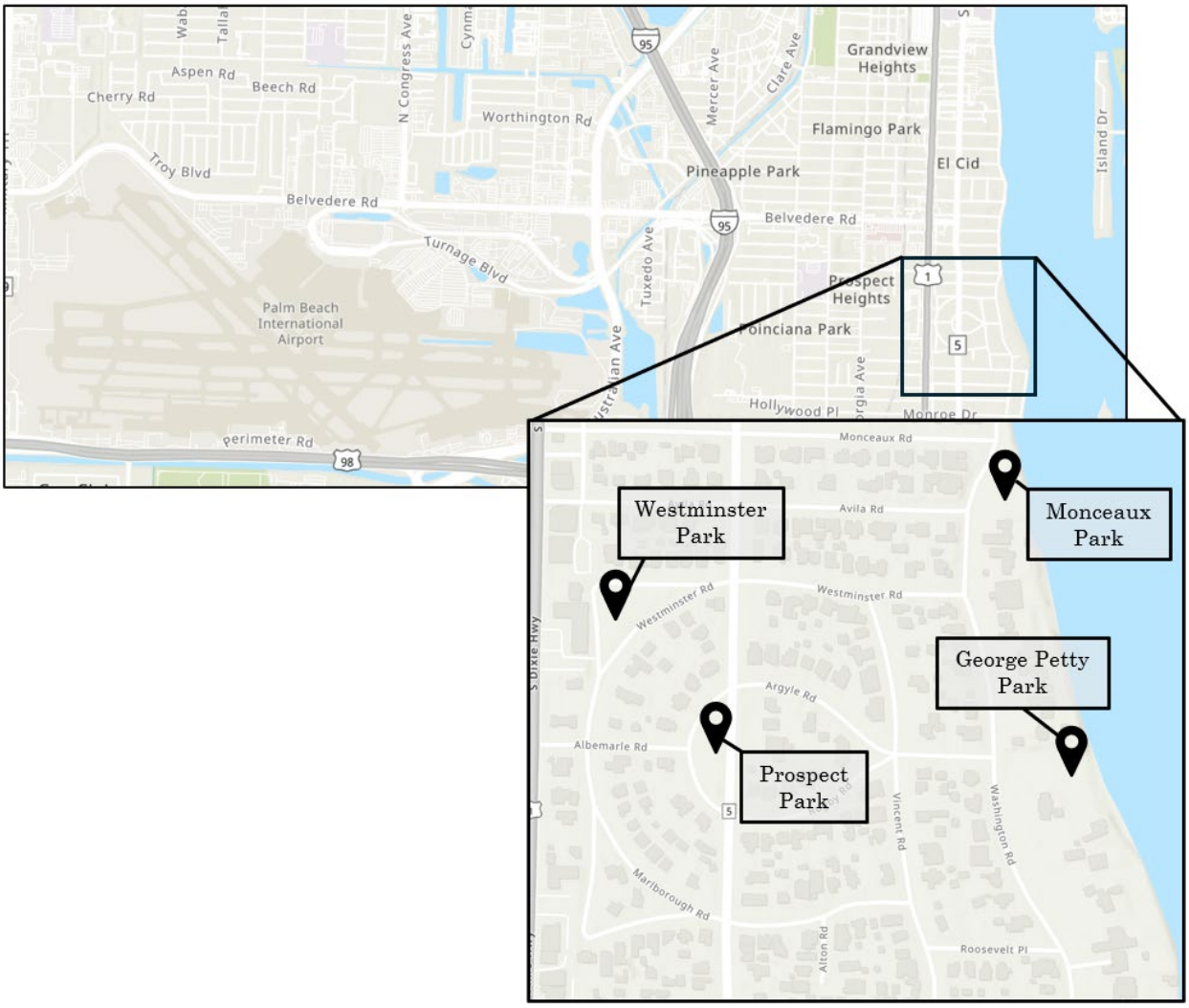


Fig. 1, Locations of Westminster Park, Monceaux Park, Prospect Park, and George Petty Park.

12. Westminster Park is a quiet, tree-lined park in the historic Southland Park neighborhood. The park's amenities include an open green space, walking paths, benches and other seating, an area to play disc golf, and lush foliage, including palms and multiple towering banyan trees.



Fig. 2, Westminster Park.

13. Nearby sits Prospect Park, which provides another peaceful retreat for the surrounding Prospect Park neighborhood, among others. The park's amenities include an open green space, a central fountain bordered by tightly trimmed hedges, and a gazebo providing cover for multiple benches.



Fig. 3, Prospect Park.

14. Further east sits George Petty Park—a tranquil spot for relaxation and leisure activities. The park's amenities include an open green space, a playground and swing set, picnic tables, benches, and a sandy beach along the park's east side that allows visitors to enjoy picturesque views of Lake Worth Lagoon.



Fig. 4, George Petty Park.

15. And to the north lies Monceaux Park. Situated between Flagler Drive and Lake Worth Lagoon, the park features a sprawling grassy field suited for all manner of recreational and leisure activities, a walking trail, and numerous benches that offer sweeping views of the lagoon.



Fig. 5, Monceaux Park.

16. Having served in the City for over 15 years, I have visited these Parks numerous times and am familiar with their environment both before and after the implementation of the Flight Restrictions. Prior to implementation of the Flight Restrictions, I rarely saw or heard loud noise generated by aircraft overflying the Parks. That is no longer the case. Since the Flight Restrictions were implemented, the beautiful views that the Parks provided are now marred each day by the sight of constant streams of aircraft. Moreover, the Parks' tranquil and quiet environments are now routinely interrupted by piercing noise from aircraft engines.

17. The Parks are under the jurisdiction of the City's Parks and Recreation Department, which is overseen by Director Leah Rockwell.

The FAA did not consult with Ms. Rockwell in identifying any parks or recreation areas that could potentially be impacted by the Flight Restrictions. Nor did the FAA consult with Ms. Rockwell in analyzing the effect that those restrictions (including resultant noise increases) would have on the City's parks and recreation areas. The FAA's failure to consult on these important matters impairs the City's long-standing interest in preserving its environment and natural resources.

Historic Resources

18. The City is steeped in history and has gone to great lengths to preserve and protect its vibrant and unique historic resources through a robust Historic Preservation Program.

19. These efforts are evidenced by the City's adoption of multiple ordinances aimed at historic preservation. One such ordinance is the Historic Preservation Ordinance, which was adopted in 1990 and arose from the City's belief that "its collection of historic properties and historic districts … create a setting, sense of time and place, and ambience highly attractive to tourists, business development and residents."

20. Among other goals, the ordinance seeks to "[p]reserve, protect, enhance and perpetuate" the City's historic resources and to

"[p]rotect and enhance the scale, character and stability of existing neighborhoods," including "against destruction of or encroachment upon areas which contribute to the character of the city." To do so, the ordinance places restrictions on the kind and scope of alterations that can be made to historic properties. To achieve these goals, the ordinance created a Historic Preservation Division of the Planning Department, which currently oversees the City's preservation efforts.

21. To further advance the City's preservation goals, the City has also passed ordinances that allow properties to qualify for a number of historic designations, including "historic properties," "historic districts," "historic residential districts," and "landmarks."

22. Several of the City's precious historic resources now sit directly under the revised flight paths created by the Flight Restrictions. As a result, these resources have been continuously exposed to increased noise, vibrations, and visual effects from the significant increase in overflights. The historic resources, each of which now sit under the revised flight paths, are: Alfred J. Comeau House, El Cid Historic District, Flamingo Park Historic District, Mango Promenade Historic District, and the Ann Norton House and Sculpture Gardens. These

properties were identified by the City using GIS mapping and information from the City's Historic Preservation Division.

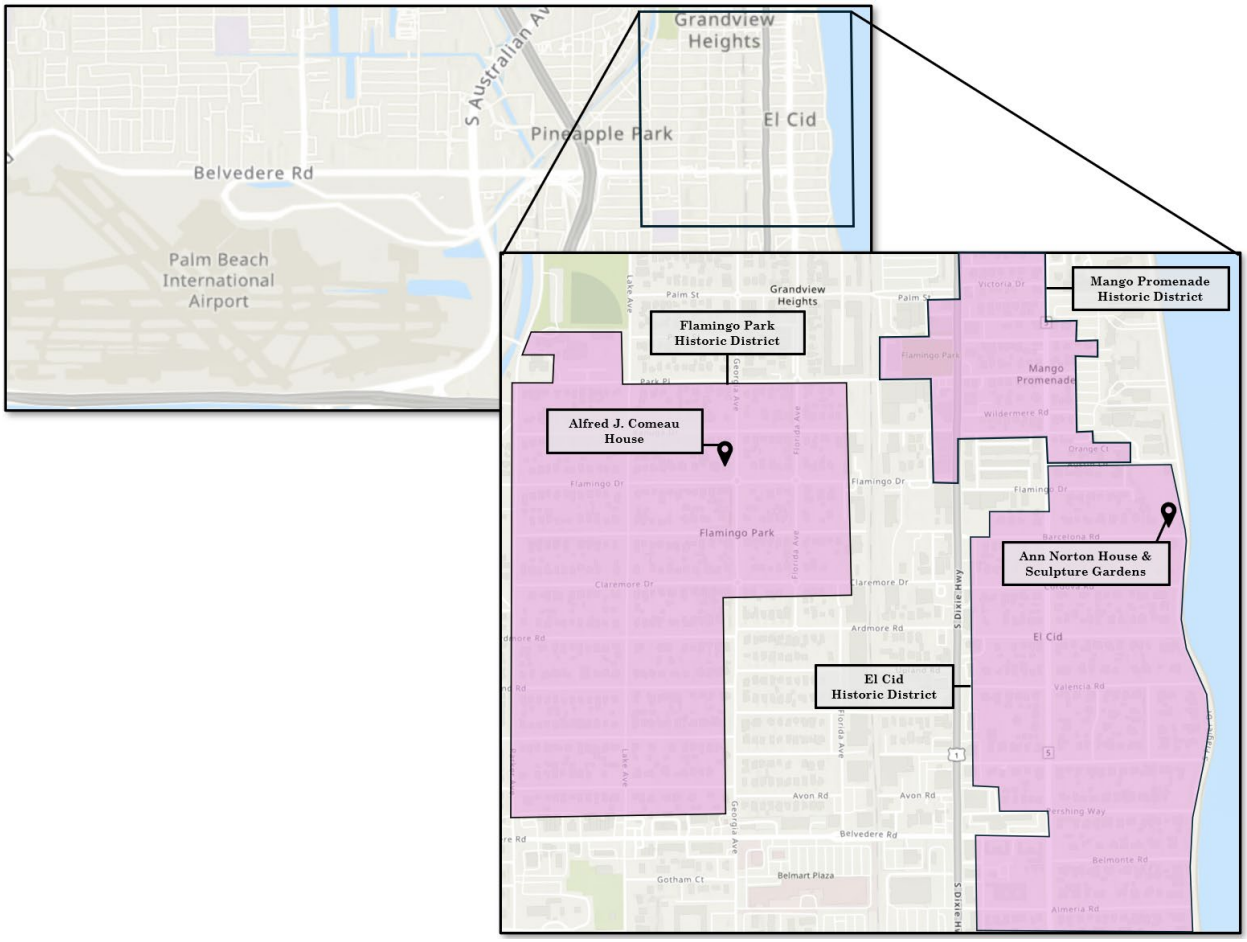


Fig. 6, Locations of sites listed on the National Register.

23. Prior to the implementation of the Flight Restrictions, these historic sites and districts were rarely subject to any overflights or loud aircraft noise. Now, however, aircraft are constantly observed flying over these sites and districts as early as 6:00 a.m. and as late as 11:00 p.m. Additionally, because these aircraft are flying so low, they generate

constant and extremely disruptive noise that permeates these historic sites and districts.

24. This increase in aircraft noise is particularly concerning for the following historic districts, which are included in the National Register of Historic Places: the El Cid Historic District, the Flamingo Park Historic District, and the Mango Promenade Historic District. These historic districts are composed primarily of single-family homes and, as such, one of these districts' generally recognized purposes and attributes is the quiet, residential setting that they provide to the thousands who live within their bounds. This quiet setting has been destroyed by the Flight Restrictions, which now concentrate low flying aircraft over these homes and expose the residents who live there to constant aircraft noise that is so loud it can be heard indoors.

25. The City is also concerned that vibrations caused by the severe aircraft noise could, over time, adversely impact the structural integrity or architectural features of the City's historic sites. This concern is particularly acute given that the Flight Restrictions will continue diverting flights over historic sites every day for at least the remainder

of President Trump's term. This would jeopardize the efforts the City has taken to preserve its historic resources.

26. Prior to implementing the Flight Restrictions, the FAA did not contact the City for information on its historic resources (including their sensitivity to increased aircraft noise, vibrations, and other impacts associated with low-flying aircraft) so that it could evaluate the impact of increased overflights on the City's historic resources. Nor did the FAA seek public comment and input from the City's residents regarding the effect of the Flight Restrictions on the City.

27. I understand that in January 2026 the FAA ultimately determined that the Flight Restrictions would have no adverse effect on the City's historic resources. The FAA never notified the City of this finding, and did not provide the City with any supporting documentation or an opportunity to object to that finding.

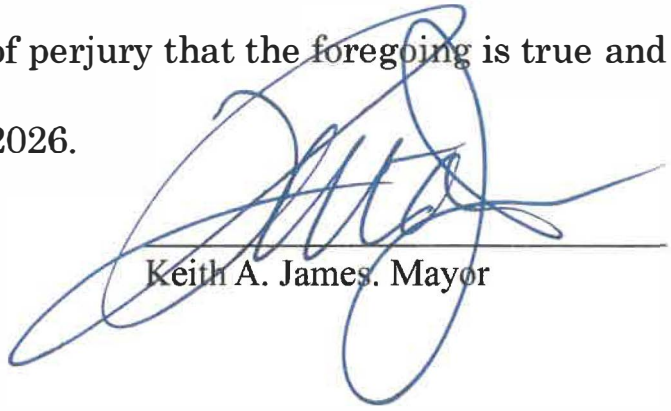
28. To this date, the FAA has not consulted with the City regarding the Flight Restrictions' effects to the City's historic resources.

29. The FAA's failure to consult with the City regarding the effects of the Flight Restrictions at issue on its historic resources impairs the City's long-standing interest in protecting those resources.

30. In summary, the FAA's failure to properly evaluate—or consult with the City regarding—the environmental impact of the Flight Restrictions has harmed the City's interest in protecting and preserving its environment, as well as its natural and historic resources.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 01, 2026.



Keith A. James. Mayor

I, Michael Horn, declare the following:

1. I am the Marina Manager at the Town Marina ("Marina"), which is owned and operated by the Town of Palm Beach, Florida (the "Town"). This Declaration is based upon my personal knowledge. I am authorized to testify to the matters herein and, if called as a witness, could competently testify to the following facts and information.

2. I have served as Marina Manager since April 2013. In this role I oversee the day-to-day operations of the Marina's operations and frequently interact with current and potential customers.

3. I am generally familiar with the FAA's implementation of permanent flight restrictions over the Mar-a-Lago Club in October 2025 (the "Flight Restrictions").

4. The Marina is located at 500 Australian Avenue, Palm Beach, Florida, 33480. The Marina abuts Lake Drive Park (the "Park"), a historic Town-owned public park, as well as Lake Trail (the "Trail"), a Town-owned recreation trail that stretches along the Town's western coast. Given this proximity, I routinely walk through the Park and along the Trail in the course of performing my job responsibilities and in my free time. Additionally, given my tenure at the Marina, I am familiar

with its environment, as well as the Park's and Trail's environments both before and after the FAA's implementation of the Flight Restrictions.

5. Prior to implementation of the Flight Restrictions, aircraft noise was only rarely heard at the Park, Trail, or Marina. This was typically due to weather-related diversions at Palm Beach International Airport, or when President Trump was in residence at Mar-a-Lago during his first term. Outside of these rare and discrete instances, the Park, Trail, and Marina provided a quiet, peaceful, and scenic setting.

6. Since the Flight Restrictions were implemented, aircraft noise at the Park. Trail, and Marina is no longer rare. Instead, I have observed a constant flow of aircraft that fly over the Park, Trail, and Marina daily. These aircraft produce loud noise that can be heard at the Park, Trail, and Marina. This noise is so disruptive that I frequently must pause face-to-face conversations when aircraft are flying overhead because it is too hard to hear or to be heard. Additionally, the scenic views that the Park, Trail, and Marina provided (including views of Lake Worth Lagoon and the City of West Palm Beach skyline) are now blemished by the sight of aircraft flying over the area daily. These impacts, all of which were

caused by the Flight Restrictions, make the Park, Trail, and Marina less enjoyable.

7. The Marina serves as an important Town-owned enterprise and attracts clientele who value the peaceful waterfront environment historically associated with the facility. The constant aircraft noise and overflights resulting from the Flight Restrictions diminish that experience and are inconsistent with the quiet enjoyment previously associated with the Marina, Park, and Trail. While I cannot quantify a specific financial impact attributable to the Flight Restrictions, the ongoing noise and disruption have the potential to negatively affect the Marina's brand and reputation as a serene and peaceful destination for yacht owners, guests, and visitors, which could in turn impact the Marina's ability to retain and attract customers over time, ultimately negatively impacting the marina's revenue.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 28, 2026.

Michael Horn

Michael Horn

#7899987 v1 13156-00454

DECLARATION OF WILLIAM K. CALER, JR.

I, William K. Caler, Jr., declare the following:

1. I am the President of the Everglades Club, which is a historic property in Town of Palm Beach, Florida (the "Town"). This Declaration is based upon my personal knowledge. I am authorized to testify to the matters herein and, if called as a witness, could competently testify to the following facts and information.

2. I have served as President of the Everglades Club since June 2024. In this role, I am charged with supervision of the operations and management of the Club.

3. I am generally familiar with the FAA's implementation of permanent flight restrictions over the Mar-a-Lago Club in October 2025, including the resulting change in flight paths (the "Flight Restrictions").

4. The Everglades Club, located at 356 Worth Avenue, is an iconic social club in the heart of Palm Beach's commercial district. Opened in 1919, the club holds the distinction of being the Town's first Addison-Mizner-designed building and is thus closely tied to the architectural history and civic fabric of the Town. As such, the club has

been locally designated as a historic landmark since 1980 and is eligible for inclusion on the National Register of Historic Places.

5. Among the club's defining attributes is its quiet and peaceful environment, which has attracted members for over a century.

6. Prior to implementation of the Flight Restrictions, aircraft noise was rarely heard at the club. However, since the Flight Restrictions were implemented that is no longer the case. Now, aircraft are constantly observed flying over the club at low altitudes daily. Additionally, the loud noise that these aircraft produce is extremely disruptive and has shattered the club's previously quiet atmosphere.

7. For example, on December 15, 2025, the club served as the venue for the Preservation Foundation of Palm Beach's presentation of its annual Ballinger Award, an annual award that honors restoration of a landmarked estate. The ceremony was held outside on the club's lawn, which overlooks Lake Worth Lagoon. At multiple points during the ceremony, aircraft flew over the club at such low altitude that the accompanying roar caused the ceremony to be temporarily stopped.

Pursuant to 28 U.S.C. § 1746, I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on June 2, 2026.

William K. Caler, Jr.

WEST PALM BEACH
Mayor's Office

Keith A. James
Mayor

November 10, 2025

Formal Complaint Clerk (AGC-300)
Office of the Chief Counsel
Federal Aviation Administration
800 Independence Avenue SW
Washington, DC 20591

Subject: Formal Complaint Regarding Year-Round TFR Over Palm Beach County Airspace

Dear Sir or Madam,

On behalf of the City of West Palm Beach and its residents, we hereby submit this formal complaint pursuant to **14 CFR §13.5** concerning the continuing **Temporary Flight Restriction (TFR)** in effect over Palm Beach County. This restriction remains active throughout the year, including long periods when the President is not present in the area.
The City of West Palm Beach has experienced a range of adverse impacts directly attributable to this ongoing TFR, including:

- **Increased Aircraft Noise:** The redirection of air traffic has concentrated flight patterns over densely populated neighborhoods and commercial districts, resulting in sustained noise exposure that negatively affects community livability and economic vitality.
- **Vibrations Impacting Historic Structures:** Many of our city's historic buildings—some over a century old—are experiencing potential structural vibrations from altered flight paths and low-altitude overflights. These vibrations risk damaging irreplaceable architectural elements and compromising preservation efforts central to our city's heritage.
- **Lack of Clear Basis for Continuation:** The indefinite continuation of the TFR, absent an active security necessity, raises concerns regarding transparency and alignment with the FAA's obligation to manage airspace efficiently while minimizing undue harm to local communities.

We respectfully request that the FAA **reassess both the necessity and scope** of this year-round restriction. The City urges the agency to collaborate with local governments, airport operators, and community stakeholders to establish an airspace management approach that ensures national security while protecting the integrity of historic resources and residents' quality of life.

West Palm Beach values its role as part of a region of national importance and welcomes continued coordination with federal partners. However, we believe that responsible governance requires a more balanced approach—one that safeguards both security interests and the cultural and structural fabric of our community.

Yours in service,

Mayor Keith A. James
City of West Palm Beach

401 CLEMATIS STREET
P.O. BOX 3366
WEST PALM BEACH, FL 33402
(561) 822-1400 (TTY) 800-955-8771)

From: noreply@faa.gov
Sent: Monday, December 15, 2025 6:30 AM
To: Gary Sypek
Subject: Aeronautical Inquiry AI-251897 has been closed

Gary Sypek,

Your Aeronautical Inquiry has been closed. If you have followup questions or comments, please use the online inquiry form instead of sending via email.

==========
FAA Response:

Mr. Sypek,

At the request of the United States Secret Service, the FAA issued a Mar-a-Lago Temporary Flight Restriction on Oct. 20. The FAA is designing new permanent routes that will avoid the TFR and keep aircraft moving safely and efficiently into Palm Beach International Airport (PBI). The FAA will publish the new routes in January 2026.

Please contact the United States Secret Service for more information on the Mar-a-Lago Temporary Flight Restriction.

==========
AI-251897
Category: Procedure Design > US Terminal Procedures
Airport: PBI
State: FL
Procedure Name: MIXAE FOUR DEPARTURE (RNAV)
Inquiry: Please see attached correspondence.
==========

You may view your Aeronautical Inquiries online at
https://urldefense.com/v3/__https://nfdc.faa.gov__;!!COIdcu9TKnUF_QTdrw!bFqXiBRk69cyG_NRVoH9eiQtFTaL_BWncS5RHsmNrguzPH9LVMirTwY6E_IDNtWYbT52Y13dfQ3bcA$

Aeronautical Information Portal
https://urldefense.com/v3/__https://nfdc.faa.gov__;!!COIdcu9TKnUF_QTdrw!bFqXiBRk69cyG_NRVoH9eiQtFTaL_BWncS5RHsmNrguzPH9LVMirTwY6E_IDNtWYbT52Y13dfQ3bcA$

ACN: 2328098

Time / Day

Date : 202601
Local Time Of Day : 1801-2400

Place

Locale Reference.Airport : PBI.Airport
State Reference : FL

Aircraft

Reference : X
Aircraft Operator : Air Carrier
Make Model Name : Commercial Fixed Wing
Crew Size.Number Of Crew : 2
Operating Under FAR Part : Part 121
Flight Plan : IFR
Mission : Passenger
Flight Phase : Initial Approach

Person

Location Of Person.Aircraft : X
Location In Aircraft : Flight Deck
Reporter Organization : Air Carrier
Function.Flight Crew : Pilot Flying
Qualification.Flight Crew : Instrument
Qualification.Flight Crew : Multiengine
Qualification.Flight Crew : Air Transport Pilot (ATP)
ASRS Report Number.Accession Number : 2328098

Events

Anomaly.Deviation / Discrepancy - Procedural : Published Material / Policy
Anomaly.No Specific Anomaly Occurred : Unwanted Situation
Detector.Person : Flight Crew
When Detected : In-flight

Assessments

Contributing Factors / Situations : Airport
Contributing Factors / Situations : Airspace Structure
Contributing Factors / Situations : Chart Or Publication
Contributing Factors / Situations : Environment - Non Weather Related
Contributing Factors / Situations : Procedure
Primary Problem : Ambiguous

Narrative: 1

The FAA implemented new arrival and departure procedures to avoid a recently erected, permanent TFR over Mar A Lago. The airspace is restricted for a one-mile radius around Mar A Lago 24/7 whether the President is in residence or not. In reaction to this

restriction, departures to the east and arrivals to the west are now required to maneuver to avoid the TFR. The departures to the east are expected to make an immediate turn to a 70-degree heading and are typically vectored back onto one of the SIDs to rejoin the flight plan route. Other than the threat of not managing the FMC and Mode Control Panel (on Aircraft X), the departures are not that unusual. The arrivals to the west are an entirely different matter. Two new RNAV approaches have been implemented to Runway 28R. Both follow an initial offset course of 249 from the initial approach fix to the runway. The X approach then adopts a visual flight path from 1 1/2 miles from the runway to the threshold and required rather aggressive maneuvering at low level to make a final turn to align with the runway. It is an extremely uncomfortable series of maneuvers and questionable from a stabilized approach perspective. The approach is not approved during IFR operations. And if the ceiling and/or visibility is anywhere close to the minimums, it would certainly not allow for a safe operation. The Y approach has a Radius-to-Fix (RF) leg to follow to the runway from the Final Approach Point (FAP) and are authorized for IFR approach operations, but still requires aggressive maneuvering at low levels to align with the runway. These concerns are magnified at night. Unlike DCA or LGA charted visual approaches, the runway end at PBI is embedded in a sea of other lights and very difficult to differentiate in the dark. Furthermore, the REIL for the south runway are operationally always blinking on high, which makes the landing runway very difficult to ascertain in a low level turn into a sea of lights. This is particularly problematic for pilots who arenâ€™t familiar with the PBI runway configuration, and could easily lead to airplane mistaking the much shorter runway for the north runway and either becoming unstable or in the worst case, landing on a completely unusable runway, in our operation. So I believe we need a critical analysis of the PBI operation during west operations. And press the case that the straight in RNAV and ILS approaches are being neglected in favor of a potentially dangerous approach when the airport is landing west. As an aside, I have had discussions about the situation with PBI ARTCC and they too are concerned. So maybe a liaison with the PBI TRACON can provide a united front on this issue.

Synopsis

Air carrier pilot reported the new procedures due to the permanent TFR over Mar-a-Lago have resulted in aggressive maneuvering at low levels being required for RNAV approaches to PBI.

ACN: 2328713

Time / Day

Date : 202601
Local Time Of Day : 0601-1200

Place

Locale Reference.Airport : PBI.Airport
State Reference : FL
Relative Position.Distance.Nautical Miles : 0
Altitude.AGL.Single Value : 0

Environment

Flight Conditions : VMC
Weather Elements / Visibility.Visibility : 10
Light : Daylight
Ceiling.Single Value : 4000
RVR.Single Value : 50000

Aircraft : 1

Reference : X
ATC / Advisory.Tower : PBI
Aircraft Operator : Corporate
Make Model Name : Medium Large Transport, Low Wing, 2 Turbojet Eng
Crew Size.Number Of Crew : 2
Operating Under FAR Part : Part 91
Flight Plan : IFR
Mission : Passenger
Flight Phase : Taxi
Route In Use : None

Aircraft : 2

Reference : Y
ATC / Advisory.Tower : PBI
Make Model Name : Light Transport, Low Wing, 2 Turboprop Eng
Airspace.Class C : PBI

Person : 1

Location Of Person.Aircraft : X
Location In Aircraft : Flight Deck
Reporter Organization : Corporate
Function.Flight Crew : Pilot Flying
Function.Flight Crew : Captain
Qualification.Flight Crew : Air Transport Pilot (ATP)
Qualification.Flight Crew : Multiengine
Experience.Flight Crew.Total : 4153.2
Experience.Flight Crew.Last 90 Days : 49.6
Experience.Flight Crew.Type : 432.4

ASRS Report Number.Accession Number : 2328713
Human Factors : Other / Unknown
Human Factors : Communication Breakdown
Communication Breakdown.Party1 : Flight Crew
Communication Breakdown.Party2 : ATC

Person : 2

Location Of Person.Aircraft : X
Location In Aircraft : Flight Deck
Reporter Organization : Corporate
Function.Flight Crew : First Officer
Function.Flight Crew : Pilot Not Flying
Qualification.Flight Crew : Instrument
Qualification.Flight Crew : Multiengine
Qualification.Flight Crew : Air Transport Pilot (ATP)
Qualification.Flight Crew : Flight Instructor
Experience.Flight Crew.Total : 5000
Experience.Flight Crew.Last 90 Days : 100
Experience.Flight Crew.Type : 500
ASRS Report Number.Accession Number : 2328674

Events

Anomaly.ATC Issue : All Types
Anomaly.Conflict : Ground Conflict, Critical
Detector.Person : Flight Crew
When Detected : Taxi
Result.Flight Crew : Took Evasive Action
Result.Air Traffic Control : Separated Traffic

Assessments

Contributing Factors / Situations : Human Factors
Contributing Factors / Situations : Procedure
Primary Problem : Human Factors

Narrative: 1

Our aircraft, Aircraft X, was holding short of Runway 28R at Intersection L7 at PBI. The Tower Controller (frequency 119.1) cleared us for takeoff on Runway 28R and advised of another approaching aircraft on a five-mile final to Runway 32. My Co-Captain read back the takeoff clearance and finished final checklist items, and I looked to my three oâ€™clock position to ensure the final approach was clear. I did not see any other aircraft, so I released the brakes. As I turned my head back to the left (forward), I then saw landing lights from about the one oâ€™clock position. I immediately stopped the aircraft and called out the traffic, which my Co-Captain noticed simultaneously and called â€œSTOP STOP STOP.â€□ In the ATC audio obtained, the controller seemed to be attempting to cancel our takeoff clearance in this moment, but the message was garbled. Shortly after, the pilot of the jet on short final exclaimed that he was cleared to land but was going around. The controller did acknowledge the situation was a mistake on his end. We held position just past the hold short line but not yet on the runway, and awaited further instructions. Our takeoff clearance was canceled, and we were told to line up and wait on 28R, which we did. We were cleared for takeoff shortly thereafter, and the rest of the flight was uneventful. After discussion, my Co-Captain and I agreed that the RNAV (GPS) X Runway 28R approach that was in use that day was a major contributing factor.

In addition, I posit that the design of the cockpit and possible expectation bias were also contributory. The RNAV (GPS) X Runway 28R approach at PBI is offset 30 degrees from the final approach course to avoid overflight of the TFR over Mar-a-Lago. This places approaching aircraft in an area of the sky that controllers and pilots may not be used to looking at when clearing final approach prior to takeoff; and in our case, the aircraft windscreen structure temporarily obscured the jet from view. Additionally, due to the geometry of the approach, the fix that we are expected to fly by to align with the runway (FREBY) is 0.9 nautical miles from the runway threshold. Maneuvering this close in to the runway and low to the ground (approximately 356 feet above the TDZE if my math is correct, based off the 3.1 degree descent angle prescribed by the approach plate is dangerous, and does not meet the stable approach criteria recommended by the organization, AC 120-108A, AC 91-79B, and the â€œStabilized Approach and Landingâ€☐ fact sheet produced by the FAASTeam of being stabilized by 500 feet AGL when in VMC. As far as human factors, I think expectation bias played a part here. As a pilot, I am used to not having another airplane on short final when cleared for takeoff at a towered airport; and, while helpful and prudent, being alerted to the airplane approaching Runway 32 may have also influenced my bias when scanning the sky before crossing the hold short line because, surely, the controller would have also mentioned the airplane on short final to our runway, right? As a controller, one may get into a rhythm and temporarily let their guard down, especially if SOPs have changed recently. Having a â€œtrust but verifyâ€☐ mentality and making a conscious effort to recognize when one is feeling too comfortable may have prevented any of us having been put in this situation.

Narrative: 2

While holding short of 28R on Taxiway L7, we advised Palm Beach Tower that we were ready for departure. Within 30 seconds we were given a takeoff clearance and advised that there was landing traffic for Runway 32 that was on a 5-mile final. As pilot not flying, I read back the takeoff clearance and acknowledged the traffic on the 5-mile final for 32. Our aircraft started moving to take Runway 28R and crossed the hold short line as both pilots looked to visually clear the final. I noticed Aircraft Y on short final (estimated 1 mile) and told the pilot flying to stop the aircraft as the pilot flying also noticed traffic on final. This was all happening as the Tower Controller was fumbling with our tail number over the radio but once he got it out he told us to hold our position. We stopped [our] aircraft before it reached the runway. The aircraft on final stated over the radio that they were cleared to land on 28R but were going around. He also asked â€œWhat was the deal with that?â€☐, to which the Tower Controller stated that he had made an error. We held our position until we were given instructions to line up and wait on 28R. The aircraft we were originally warned about landed on Runway 32 and the aircraft that went around on 28R was handed off to Approach Control. We were then issued a takeoff clearance on Runway 28R and the rest of the flight was uneventful. I believe the Tower Controller issuing a takeoff clearance with airplanes landing on intersecting runways led to this runway incursion. The offset RNAV approaches for Runway 28R also make it difficult to plainly and efficiently see aircraft on final.

Synopsis

Corporate flight crew expressed concern about the design of the PBI RNAV (GPS) X Runway 28R approach, alleging the offset makes it difficult for departing aircraft flight crews to spot inbound aircraft.