UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, D.C.

CHRISTOPHER (CRISS) GUINN, **COMPLAINANT**, **v.** **PICKENS COUNTY, SOUTH CAROLINA,** **RESPONDENT.**

FAA Docket No. 16-23-18

DIRECTOR'S DETERMINATION

I. INTRODUCTION

This matter is before the Federal Aviation Administration (FAA) based on a complaint filed under Title 14 of the Code of Federal Regulations, Part 16 (14 CFR part 16) by Christopher (Criss) Guinn (Complainant or Guinn) against Pickens County, South Carolina (Respondent or County). Pickens County is the sponsor of Pickens County Airport (Airport or LQK).

Guinn alleges that the County violated Grant Assurance 22, *Economic Nondiscrimination*, by establishing unreasonable conditions in the standard operating procedure (SOP) for ultralight operations at LQK. The Complaint states, "[t]he SOPs are proof that Mr. Salinas [LQK Airport Administrator] and Pickens County are discriminating against my type of aircraft and my medical condition." (FAA Exhibit 1, Item 2, p. 6). Specifically, Guinn alleges the County is requiring him to have an Aviation Medical Examiner (AME) examination due to the potential side effects of his diabetic medication. In addition, the Complaint states "...the SOP's are extremely restrictive, expensive, time limited and unsafe." (FAA Exhibit 1, Item 2, p. 3).

The County denies that it violated Grant Assurance 22, *Economic Nondiscrimination* (FAA Exhibit 1, Item 7). It states that it "…has agreed to proceed in compliance with the determinations previously made by the FAA to allow ultralight access" and to allow this access "the Airport Manager issued the necessary SOP's pursuance to IAW FAA/SR guidance and FAA regulation." (FAA Exhibit 1, Item 7, p. 2).

With respect to the allegations presented in this Complaint discussed below, the Director of the FAA Office of Airport Compliance and Management Analysis (Director) finds the County in violation of Grant Assurance 22, *Economic Nondiscrimination*.

The FAA's decision in this matter is based on applicable federal law, FAA policy, and a review of the pleadings and supporting documentation submitted by the parties, which comprise the Administrative Record reflected in the attached FAA Exhibit 1.

II. PARTIES

A. Complainant

Christopher (Criss) Guinn is an ultralight user and resident of Pickens County (FAA Exhibit 1, Item 2, p. 3 and FAA Exhibit 1, Item 2, Exhibit A). In November 2021, Guinn visited LQK and requested access to fly his ultralight powered paraglider at the Airport (FAA Exhibit 1, Item 2, Exhibit A). The County initially denied Guinn access to the Airport due to alleged safety reasons (FAA Exhibit 1, Item 2, p. 10). Pickens County has since established an SOP to allow ultralights, which Guinn alleges is unreasonable and discriminatory (FAA Exhibit 1, Item 2, p. 6; FAA Exhibit 1, Item 4, Exhibit E).

B. Respondent

Pickens County is the sponsor of LQK, a general aviation airport located four miles south of the central business district of Pickens County, in Liberty, South Carolina. The Airport has one runway (05/23) that is 5,002 feet long and 100 feet wide, equipped with lighting and approach aids. The Airport does not have an Air Traffic Control Tower, and there are 34 based aircraft located at the airfield. The Airport supports over 11,000 annual operations (FAA Exhibit 1, Item 11).

The development of LQK has been financed, in part, with funds provided by the FAA under the Airport Improvement Program (AIP) authorized by the Airport and Airway Improvement Act of 1982 (as amended 49 U.S.C. § 47107, *et seq.*). The County has accepted $11,722,363 in AIP funds and $1,058,070 in other grant program funding for LQK.[1] The last AIP development grant was received in 2024 (FAA Exhibit 1, Item 12).

III. PROCEDURAL HISTORY

1) On August 23, 2023, Guinn submitted his Complaint (FAA Exhibit 1, Item 2).

2) On September 11, 2023, the FAA docketed the Complaint as FAA Docket 16-23-18 (FAA Exhibit 1, Item 3).

3) On September 29, 2023, the County filed a Motion for Summary Judgment (FAA Exhibit 1, Item 4).

4) On October 6, 2023, Guinn filed an Answer to the Motion for Summary Judgment (FAA Exhibit 1, Item 5).

5) On February 8, 2024, the FAA issued an Order to Proceed with the Pleadings (FAA Exhibit 1, Item 6).

[1] LQK received $63,000 in Coronavirus Aid, Relief, and Economic Security (CARES) Act, $23,000 in Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act, $59,000 in American Rescue Plan Act (ARPA) funds, and $881,000 in Bipartisan Infrastructure Law (BIL) (FAA Exhibit 1, Item 12).

6) On February 21, 2024, the County filed its Answer to the Complaint (FAA Exhibit 1, Item 7).

7) On February 27, 2024, Guinn filed his Reply to the County's Answer to the Complaint (FAA Exhibit 1, Item 8).

8) On March 8, 2024, the County filed its Rebuttal (FAA Exhibit 1, Item 9).

All other motions and notices are included in the Administrative Record (FAA Exhibit 1).

IV. FACTUAL BACKGROUND

The undisputed facts in this matter are as follows:

November 2021	Guinn visited LQK and requested access for his ultralight powered paraglider (FAA Exhibit 1, Item 2, Exhibit A).
November 30, 2021	The County emailed Guinn indicating that ultralight operations were not permitted at LQK (FAA Exhibit 1, Item 2, Exhibit A).
November 30, 2021	Guinn emailed the County expressing his concerns with the County's compliance with Grant Assurance 22 due to the County's unwillingness to grant him access and requested pre-complaint resolution (FAA Exhibit 1, Item 2, Exhibit A).
December 2, 2021	Guinn submitted a Part 13 informal complaint alleging that LQK condoned a unilateral restriction and denied access to allow ultralights without FAA concurrence (FAA Exhibit 1, Item 2, Exhibit D).
January 7, 2022	A meeting was held between Guinn, ASO-620, and AFS-830[2] to determine the compatibility of an ultralight operator at LQK (FAA Exhibit 1, Item 4, Exhibit B).
January 13, 2022	A second meeting was held between the County, ASO-620, and AFS-830 to determine the compatibility of an ultralight operator at LQK (FAA Exhibit 1, Item 4, Exhibit B).
August 4, 2022	AFS-830 issued a safety determination identifying two locations on the Airport that could accommodate the proposed ultralight operations. The memo identified two locations that did not warrant a safety assessment due to ultralight operations in these locations being a standard operation (FAA Exhibit 1, Item 4, Exhibit B).
January 20, 2023	ASO-620 issued a 14 CFR part 13.2 (Part 13) determination requesting voluntary compliance from the County to accommodate the ultralight

[2] FAA Southern Region Airports Division, Safety and Standards Branch (ASO-620); FAA Office of Aviation Safety, General Aviation & Commercial Division (AFS-830).

	operation at LQK based on the AFS-830's safety determination (FAA Exhibit 1, Item 4, Exhibit B).
February 15, 2023	LQK submitted a request to the United States Department of Transportation Office of Inspector General (USDOT/OIG), and to the FAA Office of Airport Compliance and Management Analysis (ACO-100) to conduct an appeal review of the Part 13 determination issued by ASO-620 (FAA Exhibit 1, Item 2, Exhibit C).
February 15, 2023	ACO-100 remanded the County's appeal back to ASO-600 for review (FAA Exhibit 1, Item 2, Exhibit C).
April 27, 2023	ASO-620 requested an update from the complainant regarding the review and status of the proponent's ultralight application (FAA Exhibit 1, Item 2, Exhibit C).
May 2, 2023	LQK requested additional safety restrictions be considered by the FAA (FAA Exhibit 1, Item 2, Exhibit C).
May 4, 2023	ASO-620 issued a Report Notice of Noncompliance to LQK, finding the County in violation of Grant Assurance 22, *Economic Nondiscrimination* for implementing an access safety restriction for ultralight aircraft (FAA Exhibit 1, Item 5, Exhibit C).
May 5, 2023	LQK submitted an appeal to ACO-100 and a request to run all communications through ACO-100 (FAA Exhibit 1, Item 2, Exhibit C).
May 5, 2023	ACO-100 remanded the County's appeal back to ASO-600 for review (FAA Exhibit 1, Item 2, Exhibit C).
June 6, 2023	ASO issued a response to the County's request for an appeal review and repeated its request for the corrective action plan that was originally requested in the Report Notice of Noncompliance issued on May 4, 2023 (FAA Exhibit 1, Item 2, Exhibit C).
June 14, 2023	ACO-100 issued a response to the County's request for an appeal review confirming ASO-620's position on the Part 13 determination (FAA Exhibit 1, Item 2, Exhibit D).
June 23, 2023	The FAA emailed the County requesting a corrective action plan by July 10, 2023 (FAA Exhibit 1, Item 2, Exhibit E).
July 13, 2023	The County issued a notice indicating that the Airport would accommodate ultralight operations following the County Council's reading and vote scheduled for August 7, 2023 (FAA Exhibit 1, Item 2, Exhibit F).

August 1, 2023 — Guinn requested the ultralight SOP from the County. Guinn took issue with several requirements of the SOP, some of which have prevented him access to the Airport (FAA Exhibit 1, Item 2, pp. 5–6).

August 7, 2023 — The County passed a resolution amending Sec. 6-76 of the County's Regulations for ultralight operations at LQK to state,

> *Takeoffs and landings*. Unless an emergency situation is present, all takeoffs and landings shall be confined to the runways. Provided, however, takeoffs and landings of ultralight vehicles shall not be subject to this requirement and shall instead be governed by any and all regulations as may be promulgated pursuant to the authority of Section 6-77 of this Code of Ordinances.

(FAA Exhibit 1, Item 4, Exhibit A).

August 23, 2023 — Guinn filed a formal complaint under 14 CFR part 16 against the County as sponsor of Pickens County Airport.

V. ISSUES

The Complaint claims that the County is in violation of Grant Assurance 22, *Economic Nondiscrimination*, by imposing unreasonable and unjustly discriminatory SOP terms (FAA Exhibit 1, Item 2, pp. 5–8). The Complaint states, "The SOPs written by Pickens County airport proves they do discriminate against my type of vehicle and also my medical condition." (FAA Exhibit 1, Item 2, p. 6).

Upon review of the allegations and the relevant Airport-specific circumstances, the Director has determined that the following issues require analysis to provide a complete review of the Respondent's compliance with applicable federal law and policy:

Issue 1 – Whether the County violated Grant Assurance 22, Economic Nondiscrimination, by imposing an ultralight operating area that does not meet an acceptable level of safety.

Issue 2– Whether the County violated Grant Assurance 22, Economic Nondiscrimination, by requiring an AME examination/letter of observation for an ultralight user.

Issue 3 – Whether the County violated Grant Assurance 22, Economic Nondiscrimination, by implementing a SOP including various restrictions and limitations on ultralight users (flight scheduling, $50 fee, $250,000 insurance, and Very High Frequency (VHF) radio communications).

VI. APPLICABLE FEDERAL LAW AND POLICY

A. Airport Sponsor Grant Assurances

As a condition precedent to providing airport development assistance under the AIP, the FAA must receive certain assurances from the airport sponsor (FAA Exhibit 1, Item 1). Title 49 U.S.C. § 47107(a) sets forth certain sponsorship requirements to which an airport sponsor receiving federal financial assistance must agree. The FAA has a statutory mandate to ensure that airport owners comply with these sponsor assurances. See FAA Exhibit 1, Item 1 in the Index for a list of all the grant assurances.

B. FAA Enforcement Responsibilities

The Federal Aviation Act of 1958, as amended, assigns the FAA Administrator broad responsibilities for the regulation of air commerce in the interests of safety, security, and the development of civil aeronautics. 49 U.S.C. § 40101. Commitments assumed by airport owners or sponsors in property conveyance or grant agreements are important factors in maintaining a high degree of safety and efficiency in airport design, construction, operation, and maintenance, as well as ensuring the public's reasonable access to the airport. Pursuant to 49 U.S.C. § 47122, the FAA must ensure that airport owners comply with their federal grant assurances.

C. The Complaint and Investigative Process

Pursuant to 14 CFR § 16.23, a person directly and substantially affected by any alleged noncompliance may file a complaint with the FAA. The complainant should provide a concise but complete statement of the facts relied upon to substantiate each allegation and describe how the complainant was directly and substantially affected by the things done or omitted by the respondents. The regulations governing Part 16 proceedings provide that, if the parties' pleadings supply "a reasonable basis for further investigation," the FAA should investigate "the subject matter of the complaint." 14 CFR § 16.29(a).

In accordance with 14 CFR § 16.33(b) and (e), "a party adversely affected by the Director's Determination may file an appeal with the Associate Administrator for Airports within 30 days after the date of service of the initial determination." If no appeal is filed within the time period specified in paragraph (b) of this section, the Director's Determination becomes the final decision and order of the FAA without further action.

VII. ANALYSIS

Issue 1 - Whether the County violated Grant Assurance 22, Economic Nondiscrimination, by imposing an ultralight operating area that does not meet an acceptable level of safety.

<u>Guinn's Position</u>

Guinn argues that "The [County] proposed LZ [landing zone] for ultralights is merely a short taxiway, uphill, between tall trees, a hangar and an embankment. The traffic pattern to gain altitude is over thick trees. It would be very unsafe considering safety is their biggest concern." (FAA, Exhibit 1, Item 2, p. 6). In addition, Guinn claims that when he approached the County

manager about the landing and takeoff area, the County Manager said, "it was not very safe, and [the County Manager] agreed. [Guinn] referenced what AFS-830 had suggested next to the taxiway." (FAA, Exhibit 1, Item 2, p. 3). Guinn alleges that the County Manager's response was "I don't want you out there in a taxiway obstacle free area or a runway obstacle free area." (*Id*.).

Guinn also argues that "[t]he recommendation of the FAA Part 103 expert Mike Millard, Aviation Safety Inspector, Office of Aviation Safety (AFS-830) on the Memorandum dated August 4th, 2022, is the safest and most reasonable option." (FAA, Exhibit 1, Item 5, p. 3).

County's Position

The County claims that "[t]he grass area suggested [by the FAA] violates Runway Obstacle Free Area, Taxiway Obstacle Free Area, Taxiway Safety Area and requires patterns over hard structures. It also may require foot traffic and or vehicle traffic to access across an active taxiway, depending on the type of ultralight." (FAA Exhibit 1, Item 9, p. 5). In addition, the County claims, "The grass area suggested will regularly have wingtips of jets encroaching on them." (FAA Exhibit 1, Item 9, p. 5). The County further argues "[t]he area we have selected meets FAA criteria, does not violate ROFA, TOFA, TSA, does not require any extra traffic in the safety area and has a staging area right next to it" and that "Pickens County has scheduled tree clearing and will pay the costs for doing so. While this is not required, we are attempting to accommodate the concerns and show good faith." (FAA Exhibit 1, Item 9, pp. 5–6).

Director's Determination

Grant Assurance 22, *Economic Nondiscrimination*, states that an airport sponsor:

> "…will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport."

The FAA has interpreted Grant Assurance 22 to suggest that restricting access for aeronautical activities, such as gliders, skydiving, powered parachute, banner towing, balloons, and ultralight operations, without valid justification (which needs FAA concurrence), is not consistent with the airport's federal obligations, especially the obligations "to make airports available to all types, kinds and classes of aeronautical activities" and not granting exclusive rights.[3] *See Orange County Soaring Ass'n, Inc. v. County of Riverside*, FAA Docket No. 16-09-13, Director's Determination, p. 15, (February 11, 2011); *Bardin v. County of Sacramento*, FAA Docket No. 16-00-11, Director's Determination, pp.1 and 11, (August 9, 2001).

The County's position is that the operating area suggested by the FAA (AFS-830) violates the FAA's own design standards and that ultralight operations at that location interfere with airfield activities (FAA Exhibit 1, Item 9, p. 5). The FAA recognizes that airport sponsors can designate select areas of the airport for certain types of operations for safety or efficiency reasons. Some

[3] FAA Compliance Guidance Letter 2023-01, *Overview of Aircraft Operations on/from Airport Unpaved Areas,* September 29, 2023.

airport sponsors may try to justify restricting certain types of aeronautical operations if the proposed operation conflicts with FAA design standards, e.g., the Runway Object Free Area (ROFA). Restricting operations based on perceived conflicts with design standards alone is not sufficient, and restrictions may require FAA review and concurrence to ensure compliance with the airport's federal obligations, including the obligation to provide reasonable access to aeronautical activities, such as ultralights.[4] In this case, AFS-830 indicated that ultralights can land in the area between the runway and taxiway at the Airport without any mitigation measures (FAA Exhibit 1, Item 4, Exhibit B).

The FAA has long held that it is the final arbiter of safety, and FAA safety determinations take precedence over any airport sponsor's views or local ordinances when it comes to safety. *See Drake Aerial Enterprise, LLC v. City of Cleveland*, *Ohio,* FAA Docket No. 16-09-02, Director's Determination, p. 14, (February 22, 2010).

Based on the arguments and the record in this case, the Director disagrees with the County's rationale for restricting ultralight operations in the manner it proposes to do so. Notwithstanding that it is the FAA's prerogative to determine the role of and compliance with its own design standards (Advisory Circular (AC) 150/5300-13 *Airport Design*), the County erroneously assumes that it can justify unreasonable and discriminatory operational restrictions on the premise that the proposed operations infringe upon a safety area (e.g., Runway Safety Areas (RSA), Runway Object Free Area (ROFA)) because the practice is interpreted as "non-standard" from an airport design perspective.

The standards in AC 150/5300-13 are for the design of civil airports and are applicable for the construction of projects under certain federal grant assistance programs, including, but not limited to, the Airport Improvement Program (AIP). They are not operational measures. The application of or lack of design standards to a specific situation does not by itself imply an unsafe condition. In fact, AC 150/5300-13 Section 1.2.3, *Operations Exceeding Airport Standards*, specifically states that its standards do not limit or regulate the operations of aircraft and that aircraft operations cannot be prevented, regulated, or controlled simply because the airport or runway does not meet a design standard.

In many cases, the FAA has determined that the coexistence of a safety area with a particular aeronautical activity is not inherently unsafe. For example, in *Frank Casares, and Mile-Hi Skydiving Center v. City of Longmont, Colorado*, the FAA noted that "concerning the OFA in AC 150/5300-13 Airport Design, a PDZ [parachute drop zone] may be safely co-located within, or overlapping an OFA," and that airport design standards, "such as the OFA, do not necessarily lead to or require operational limitations." [*Frank Casares, and Mile-Hi Skydiving Center v. City of Longmont, Colorado,* FAA Docket No. 16-19-03, Director's Determination, p. 9, (January 22, 2021, affirmed by Final Agency Decision, (October 22, 2021)]. Thus, airport sponsors may not unreasonably use FAA airport design standards (or lack thereof) to restrict aircraft operations or

[4] FAA Compliance Guidance Letter (CGL) 2023-01, *Overview of Aircraft Operations on/from Airport Unpaved Areas,* September 29, 2023, specifically addresses the "misinterpretation and misapplication of Federal Aviation Administration (FAA) design standards [e.g., Runway Safety Areas (RSA), Object Free Area (OFA), and runway separation distances] exacerbate the situation by incorrectly serving as a basis for restricting operations." CGLs are intended to provide internal guidance to FAA personnel in carrying out the Airport Compliance Program.

to make a finding that an operation is unsafe. However, that is exactly what the County is attempting to do.

Aircraft operational safety is regulated by the FAA's Flight Standards Office (AFS). What constitutes an Equivalent Level of Safety (ELoS) is an FAA Flight Standards determination.[5] When making 14 CFR part 16 findings regarding matters of aviation safety, as is the case here, the Director relies on other offices within the FAA (FAA Flight Standards, AFS-830) for their safety expertise and experience. *In the Matter of Compliance with Federal Obligations by the City of Santa Monica, California*, FAA Docket No. 16-02-08, Director's Determination, p. 38, (May 27, 2008). An AFS-830 determination has been made in this case and is part of the record. As mentioned, AFS-830 conducted an airport risk review and an onsite evaluation to support the feasibility of an ultralight operator on the Airport and identified two on-Airport locations that could safely accommodate the proposed operation (FAA Exhibit 1, Item 2, Exhibit B). It was determined that ultralight operations can be safely accommodated at the Airport, and an adequate landing zone (LZ or operating area) can be established within the boundaries of the Airport, using grass areas between the runway and taxiway. Moreover, the FAA's two recommended locations did not require any mitigation or restrictive measures outside of the FAA standards for operations governing ultralights as described in FAA AC 90-66B *Non-towered Airport Flight Operations.* Note, this may include areas within the RSA, ROFA, and possibly the Taxiway Object Free Area (TOFA). Therefore, AFS-830 was able to establish an ELoS for ultralight operations at the Airport using existing FAA regulations, guidance, and operational procedures, with no additional restrictions.

The FAA safety determinations take precedence over an airport sponsor's views on safety and local ordinances, or local actions taken in regard to safety. *See Aerial Advertising* v. *St. Petersburg-Clearwater International Airport*, FAA Docket No. 16-03-01, Director's Determination, (December 18, 2003) and *Skydive Paris Inc. v. Henry County, Tennessee,* FAA Docket No. 16-05-06, Director's Determination, (January 20, 2006). This is particularly true when determining compliance with federal obligations in cases where restrictions are imposed in the interest of safety. *See In the Matter of Compliance with Federal Obligations by the City of Santa Monica, California*, FAA Docket No. 16-02-08, Final Agency Decision, (July 8, 2009).

The County rejected the FAA's proposed locations where ultralight operations could be conducted safely without restrictions and imposed its own location, which the County admits is riskier and requires mitigations (FAA Exhibit 1, Item 4, Exhibit E). The location proposed by the County is on a taxilane leading to a hangar complex, near other buildings and potentially parked aircraft, with compromised climb gradients, and could introduce unsafe conditions, create safety risks, and jeopardize the ELoS under which operations ought to be conducted at the Airport, as determined by the AFS-830 analysis of the proposed County location (FAA Exhibit 1, Item 13). The County's choice of a location that does not provide an ELoS against the FAA's decision is unjust and discriminatory to ultralight users and contrary to Grant Assurance 22.

All aeronautical users have a right to reasonable access without unjust discrimination to a federally obligated airport that meets an equivalent level of safety for the type of operation. The

[5] "The FAA's Equivalent Level of Safety (ELOS) principle requires alternative procedures to provide safety equal to or greater than the baseline standard." (FAA Exhibit 1, Item 13). It is the proper technical term to be used rather than "safe" or "unsafe." AFS-830 uses this term.

FAA has determined – after multiple comprehensive site and SOP evaluations – that ultralight operations can be undertaken at LQK within an equivalent level of safety (FAA Exhibit 1, Items 2, Exhibit B). However, the County disregarded FAA inspector recommendations that identified a different operating area and imposed its own unreasonable and unsafe restrictions that do not provide an equivalent level of safety relative to other airport operations. Additionally, FAA inspectors determined that the County's updated SOP imposes unacceptable limitations and requirements on ultralight users that exceed its authority under FAA regulations and discourage ultralight users from airport use (FAA Exhibit 1, Item 13, p. 3). The County's actions are not only unreasonable but are unjustly discriminatory towards Mr. Guinn, who intends to use the airport like other types, categories, and classes of aeronautical users who are afforded safe access to the airport on a daily basis. Airports may not discriminate between types of aeronautical activities if those activities may take place with an "acceptable level of safety" [*In the Matter of Compliance with Federal Obligations by the City of Santa Monica, California*, FAA Docket No. 16-02-08, Director's Determination, p. 55, (May 27, 2008)].

Against this background, the Director finds that the County's actions to 1) substitute its judgment for that of the FAA on the matter of safety, 2) reject the FAA's proposed site for ultralight operations, and 3) impose a location where an equivalent level of safety cannot be obtained, as determined by the FAA, thereby requiring the Complainant to operate from an unsafe location, is unreasonable and discriminatory, and thus in violation of Grant Assurance 22, *Economic Nondiscrimination*.

Issue 2 – Whether the County violated Grant Assurance 22, Economic Nondiscrimination, by requiring an AME examination/letter of observation for an ultralight user as a condition of access.

Guinn's Position

Guinn claims that the County is requiring him to have an AME examination/letter due to the potential side effects of his diabetic medication as a condition of having access to the Airport to operate his ultralight (FAA Exhibit 1, Item 2, p. 5). Guinn also asserts that FAR part 103, Ultralight Vehicles, does not require a medical exam, and that his medication is on the FAA's "Acceptable Combinations of Diabetes Medications List" (FAA Exhibit 1, Item 2, p. 5; FAA Exhibit 1, Item 5, Exhibit F).

Guinn claims that he approached the County regarding the AME approval letter requirement, in which the County stated it was for "all pilots taking a schedule medicine" (FAA Exhibit 1, Item 2, p. 7). Guinn argues that "[t]he letter of observation from an AME has no merit as the FAA has informed Pickens County Airport on many instances that Part 103 operations do not require it." (FAA Exhibit 1, Item 5, p. 3). Guinn claims that the FAA clarified that ultralight pilots do not require a medical certificate or clearance and that the sponsor should not be requiring it (FAA Exhibit 1, Item 5, p. 6).

Guinn also claims that when he visited the Airport Administrator to discuss the ultralight SOP, he was told "[y]ou fall under FAR 61." (FAA Exhibit 1, Item 8, p. 5). Guinn argues that "FAR 61.53 refers to Certificated Airmen. Part 103 has separate requirements." (FAA Exhibit 1, Item

5, p. 4). In addition, "FAA 61.53(b) states "aircraft" and Guinn argues he is an operator in a vehicle (FAA Exhibit 1, Item 8, p. 5).

County's Position

The County claims that,

> when the complainant made us aware of his use of the restricted medication, Semaglutide, we expressed concern over the side effects of *Nausea, Diarrhea, Stomach (abdominal) pain, Vomiting, Dizziness or Lightheadedness, blurred vision, anxiety, irritability or mood changes, sweating, slurred speech, hunger, confusion or drowsiness, shakiness, weakness, headache, fast heartbeat, and feeling jittery.*

(FAA Exhibit 1, Item 4, p. 3).

The County also claims that they reached out to Dr. Arnold A. Angelici, FAA Regional Flight Surgeon, for Southern Region ASO-300 inquiring about the use of Semaglutide, and Dr. Angelici responded that Semaglutide was an allowed medication for airmen to use for diabetes control and weight loss after an observation period and provided that they abide by FAR § 61.53 (Prohibition on operations during medical deficiency) (FAA Exhibit 1, Item 4, Exhibit C).

The County argues that "[s]ince a flight physical is not required, a letter will suffice to fulfill our requirement to submit a copy of the flight physical (and insurance) when conducting takeoff and landing operations in reduced proximity to personnel, buildings, and airplanes." (FAA Exhibit 1, Item 4, p. 4).

The County further argues that they were following the directive of Dr. Angelici and that "[i]t is very common for airports to ask for flight physicals (in this case, in the absence of flight physical requirements, a letter of compliance) and insurance when airshows conduct operations off runway in reduced proximity to buildings, aircraft, and personnel." (FAA Exhibit 1, Item 7, p. 7).

The County argues that "Conducting takeoffs and landings is an increased safety risk in reduced proximity to buildings, equipment, and personnel and therefore we think it prudent we have proof of medical compliance. We are not publishing any medical information simply requiring it to ensure compliance." (FAA Exhibit 1, Item 9, p. 7).

Director's Determination

The Director has reviewed the record to determine whether requiring an AME examination/letter of observation for an ultralight user as a condition of access is reasonable and not unjustly discriminatory as prohibited by Grant Assurance 22.

Grant Assurance 22, *Economic Nondiscrimination*, states that an airport sponsor:

> …will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.

In this case, the County is requiring Guinn to provide proof of medical compliance, specifically proof that he does not have side effects due to his use of Semaglutide (FAA Exhibit 1, Item 2, Exhibit F). The County states that when the complainant made the County aware of his use of the restricted medicine, they were concerned over the potential side effects of the medication (FAA Exhibit 1, Item 4, p. 3).

The County claims that they followed the directives of the ASO Flight Surgeon in assuring compliance and managing risk, and that it is typical for an Airport Manager to require proof of medical compliance (FAA Exhibit 1, Item 7, p. 7). However, these claims are not substantiated, and the County does not provide evidence to support this claim or correspondence from the ASO Flight Surgeon suggesting the County requires any medical documentation from other users. In addition, the FAA Flight Standards Division is the final arbiter of safety, and its purview includes pilot compliance with Federal Aviation Regulations regarding medical certificates and prescription drug use, not the County. *See* FAA Order 5190.6B, part 14.3.

According to further correspondence from AFS-830, Guinn is not governed by either FAR § 91.17(a)(3) or FAR § 61.53(b). As an ultralight user, Guinn is governed by FAR part 103, which does not require the operator of an ultralight vehicle to meet the same medical requirements as the pilots governed by FAR § 91.17(a)(3) or FAR § 61.53(b) (FAA Exhibit 1, Item 13). 14 CFR § 103.7 *Certification and registration*, paragraph (b) states "Notwithstanding any other section pertaining to airman certification, operators of ultralight vehicles are not required to meet any aeronautical knowledge, age, or experience requirements to operate those vehicles or to have airman or medical certificates."

AFS-830 confirms that Guinn is not required to provide confirmation that his medication does not cause adverse side effects (FAA Exhibit 1, Item 13). AFS-830 also noted that, under 14 CFR part 103, an ultralight aircraft pilot is not required to have a medical clearance or certificate and opined that the airport sponsor should not impose a requirement that goes against (or far beyond) FAA regulations (FAA Exhibit 1, Item 2, Exhibit D). Therefore, the Director finds that arbitrarily requiring Guinn to provide a letter of medical compliance is unreasonable and unjustly discriminatory because it puts requirements on Mr. Guinn's access that are not required by the FAA and are not required of other ultralight operators covered under FAR part 103 at LQK (or any other federally obligated airport).

The County claims that there is an increased safety risk associated with operating ultralight takeoffs and landings in reduced proximity to buildings, equipment, and personnel while taking the scheduled medicine (FAA Exhibit 1, Item 4, p. 4). The County's claim is unreasonable because this safety risk was created by deliberate actions by the County, which designated in its SOP an ultralight operating area on a taxiway and directed takeoffs and landings toward or over a hangar (FAA Exhibit 1, Item 2, Exhibit G). As in Issue 1, this area does not comply with the

AFS-830 finding that identified a large, unobstructed grass area between the runway and taxiway suitable for safe ultralight operations (FAA Exhibit 1, Item 4, Exhibit B). The County's perceived increased safety risk (and thus their demand for a medical clearance letter) is merely a continuation of the County substituting its judgment on ultralight operational safety for the FAA's judgment, as with Issue 1. The requirement for Guinn to provide a letter certifying medical safety and compliance did not result from an FAA requirement and is not supported by a basis applicable statutes, regulations, or FAA Policy. Therefore, the County's actions to choose its own location are unreasonable and unjustly discriminatory and in violation of Grant Assurance 22.

Accordingly, the Director concludes that the County's requirement is an unreasonable and unjustly discriminatory condition of access that has not been applied to any other similarly situated ultralight or aeronautical user of LQK. The County's claim that there is a higher risk associated with its arbitrarily chosen ultralight operation area that requires additional scrutiny of the operator's medicine tolerance is not supported by the applicable regulations[6] (FAA Exhibit 1, Item 13).

In consideration of the above, the Director finds the County to be in violation of Grant Assurance 22, *Economic Nondiscrimination,* for requiring the unreasonable and unjustly discriminatory condition of access.

Issue 3 – Whether the County violated Grant Assurance 22, Economic Nondiscrimination, by implementing a Standard Operating Procedure (SOP) including various restrictions and limitations on ultralight users (flight scheduling, $50 fee, $250,000 insurance, and Very High Frequency (VHF) radio communications).

To analyze this issue, the Director has broken down the alleged limitations as follows:

A) Limiting ultralight users to a 1-hour flight block in a Monday through Thursday period between 8:30 a.m. and 4:00 p.m., which must be scheduled at least one week in advance;

B) Requiring a $50 fee at the time of the scheduled flight and requiring proof of liability insurance for ultralight operations in the amount of $250,000; and

C) Requiring users to have a VHF radio and to establish two-way contact with Pickens County Airport via radio before entering airspace.

Guinn's Position

A) Limiting ultralight users to a 1-hour flight block in a Monday through Thursday period between 8:30 a.m. and 4:00 p.m., which must be scheduled at least one week in advance.

Guinn argues that "[t]he limited times cut out any evening flights due to thermal activity creating less safe conditions for my type of ultralights. The limited days means I'm not allowed to fly weekends which oddly enough is when the airport is less busy." (FAA Exhibit 1, Item 2, p. 6).

[6] FAA regulations for airman certification are found in Title 14 of the Code of Federal Regulations (CFR), Parts 61 and 141. Part 107 applies to commercial drone operators. Part 67 pertains to airmen's Medical Standards and Certification.

Guinn also argues that

> [p]owered paraglider pilots, as well as many other ultralights, prefer to fly during the early morning hours of the day and the last hour of the day. This is the time when turbulence is the least and is the safest time to fly. The FAA has acknowledged this directly in FAR 103, where it is made allowable for ultralights to fly 30 minutes before daylight and 30 minutes after daylight so long as they use a strobe. The FAA recognizes that these dawn and twilight hours are the most preferable time for ultralights to operate. The SOP attempts to limit when I can use the airport and no FAA regulations allow the airport to restrict the time of day or days that I am allowed to use the airport.

(FAA Exhibit 1, Item 5, p. 2).

In addition, Guinn argues that "one-week advance notice is unnecessary since the 'preparation' itself is unwarranted. With my type of ultralight, wind and weather conditions are very constricting. Scheduling a week out could result in many weeks without the ability to fly due to changing weather conditions as soon as hours before my flight time." (FAA Exhibit 1, Item 8, p. 2).

Guinn claims that he discussed possible resolutions to this issue with ASO, requesting fly days primarily from Friday through Sunday because he works Monday through Thursday (Exhibit 1, Item 5, p. 2). Guinn also claims that he offered to stay away from the airport during their busiest times (FAA Exhibit 1, Item 5, p. 2).

B) Requiring a $50 fee at the time of the scheduled flight and requiring proof of liability insurance for ultralight operations in the amount of $250,000.

Guinn claims "[u]ltralight insurance is expensive and only provided by one company which means they can set their price. It's only available for $1,000,000.00 coverage with no way to reduce it to $250,000.00." (FAA Exhibit 1, Item 2, p. 7). In addition, "[t]he insurance added to the $50 price per flight would make my recreational sport difficult to maintain." (FAA Exhibit 1, Item 2, p 7). Guinn argues "…the $250,000 insurance requirement is only required [for] ultralights . . . This is not fair or equal treatment." (FAA Exhibit 1, Item 5, p. 3).

Guinn argues that the County's insurance requirement for "the increased risk of conducting takeoff and landing operations in reduced proximity to personnel, buildings, and airplanes" is "an opinion that an ultralight operator is less safe than a certificated pilot. There's no proof that this has any truth to it. ln fact, the landing area they proposed is closer to a building than what the FAA suggested." (FAA Exhibit 1, Item 5, p. 4).

C) Requiring users to have a VHF radio and to establish two-way contact with Pickens County Airport via radio before entering the airspace.

Guinn argues that the radio guidance recommended by the FAA was for "listening for traffic only" and that Pickens County Airport should not require two-way radio operations when it is not required by Part 103 (FAA Exhibit 1, Item 8, p. 3). Guinn goes on to explain that he monitors

the radio for his safety and the safety of others (FAA Exhibit 1, Item 8, p. 3). However, controlling his paraglider requires both hands, which creates additional flying hazards (FAA Exhibit 1, Item 8, p. 3).

County's Position

A) Limiting ultralight users to a 1-hour flight block in a Monday through Thursday period between 8:30 a.m. and 4:00 p.m., which must be scheduled at least one week in advance.

The County claims that ASO-620 suggests "a Standard Operating Procedure (SOP) specific to his needs is put in place to help ensure compliance with FAA guidance and safety standards. The SOP can potentially call for the following: Restriction of time the ultralight user is able to use the airfield to take off and land (e.g. can perhaps only operate Friday-Sundays 7am-10am & 5pm-8pm) to avoid fast-moving jets for safety reasons." (FAA Exhibit 1, Item 4, p. 4). The County argues that it assigned a time as directed by ASO-620 (FAA Exhibit 1, Item 7, p. 6).

Regarding the one-week advanced notice, the County argues that "Pickens County will need to review paperwork, submit NOTAM, notify/assist aircraft that would like to move away from takeoff/landing operations in close proximity to their aircraft, and ensure availability to brief, escort, and monitor operations." (FAA Exhibit 1, Item 7, p. 6).

B) Requiring a $50 fee at the time of the scheduled flight and requiring proof of liability insurance for ultralight operations in the amount of $250,000.

The County claims

> …we are recovering some of the cost of processing requests, conducting safety briefings, issuing Notice to Airmen (NOTAM), notifying/assisting nearby aircraft that might like to move, escorting users to and from operations, monitoring radios, and covering some of the increased risk of conducting takeoff and landing operations in reduced proximity to personnel, buildings, and airplanes. These are costs not incurred by other users.

(FAA Exhibit 1, Item 4, p. 3).

In addition, the County argues the $50 is the same fee charged for handling other aircraft and is well below the fees discussed in the FAA ruling and other local airports (FAA Exhibit 1, Item 9, p. 4). The County claims that the fee is advertised on the airport website (FAA Exhibit 1, Item 9, p. 4).

The County argues that "Pickens County requires insurance for all operations in reduced proximity to hangars, equipment, and personnel. This includes hangar tenants, airshow participants, and businesses. The FAA inquired if we required insurance of others and our response is yes, as stated in Respondent's Answer." (FAA Exhibit 1, Item 9, p. 3).

C) Requiring users to have a VHF radio and to establish two-way contact with Pickens County Airport via radio before entering the airspace.

The County argues that the requirement for users to have a VHF radio was directed by ASO-620 in an email dated February 23, 2022 (FAA Exhibit 1, Item 4, Exhibit D). The County claims that the SOP requires users to have a radio and to contact the sponsor prior to operation (radio check on the ground is sufficient) (FAA Exhibit 1, Item 9, p. 5). The County claims it is not requiring ultralight users to use the radio in flight (FAA Exhibit 1, Item 9, p. 5).

Director's Determination

A) Limiting ultralight users to a 1-hour flight block in a Monday through Thursday period between 8:30 a.m. and 4:00 p.m., which must be scheduled at least one week in advance.

The County's SOP for ultralight operations indicates ultralight users can operate in a one-hour flight block, Monday through Thursday, during a period between 8:30 a.m. and 4:00 p.m., scheduled at least one week in advance (Exhibit 1, Item 4, Exhibit E).

The County first argues that the operating schedule was recommended by ASO-620 "…to avoid fast-moving jets for safety reasons." (FAA Exhibit 1, Item 4, Exhibit D). ASO-620's recommendation appears to have given the County the impression that such an operating restriction is acceptable to the FAA without further evaluation, which the Director confirms here is not consistent with the County's Grant Assurance 22 obligations. Operating restrictions – such as making the airport available to ultralights only during a certain period of time to avoid other users of the airport who do not have restricted access – must be justified and are subject to FAA Flight Standards review (FAA Exhibit 1, Item 2, Exhibit D).

When called upon to evaluate, the FAA, specifically AFS-830, has the final authority in reviewing and making decisions concerning restrictions related to the safety of aeronautical activity on an airport *See Bodin v. County of Santa Clara*, FAA Docket No. 16-11-06, Final Agency Decision, p. 29, (August 12, 2013). On August 4, 2022, AFS-830 issued a memorandum for the proposed ultralight operations at LQK (FAA Exhibit 1, Item 2, Exhibit B). In this document, AFS-830 identified that "…the appropriate level of safety is already in place for the proposed operations, and…no unusual or unique characteristics exist in this scenario that separate these activities from those occurring at other airports following the FAA guidance provided." (*Id*., at 2). Furthermore, the review specifically looked at the volume of jet activity at the Airport and did not identify the need for any mitigation measures, including limiting the time of operation to avoid fast moving jet operations. (*Id*. at 2). It concluded "[t]he times of several jet arrivals and departures are outside of the intended ultralight operation requested times as well." (*Id*. at 2). As such, AFS has already determined that ultralight operations can be conducted safely at the Airport within the confines of existing FAA regulations (FAA Exhibit 1, Item 2, Exhibit B).

In addition, the County's restriction conflicts with FAA regulation for ultralight operations, FAR § 103.11 (b), *Daylight Operations,* which states "…ultralight vehicles may be operated during the twilight periods 30 minutes before official sunrise and 30 minutes after." The County did not provide any additional reasons that would justify the operating restrictions for ultralight users.

Additionally, the record does not indicate that any other aeronautical user has such a restriction on its access. The Director agrees with Guinn that the 1-hour time block between 8:30 a.m. to 4:30 p.m. limits access and is an unreasonable and discriminatory condition. Therefore, the Director finds that the County's imposition of time restrictions for ultralight operations is not based on federal law and not supported by an FAA Flight Standards Safety assessment is inconsistent with the sponsor's federal obligations under Grant Assurance 22, *Economic Nondiscrimination*.

Regarding the one-week advanced notice, the County claims that it would allow time to "…review paperwork, submit NOTAM, notify/assist aircraft that would like to move away from takeoff/landing operations in close proximity to their aircraft, and ensure availability to brief, escort, and monitor operations." (FAA Exhibit 1, Item 7, p. 6). In reviewing the record and the airport's Minimum Standards, it appears that no other aeronautical users are required to follow similar scheduling requirements. While Airports may impose requirements and minimum standards upon those who engage in aeronautical activities, the FAA's position is that any requirement or standard that is unreasonable and applied in an unjustly discriminatory manner may be a violation of the sponsor's federal obligations when those restrictions appear to deny or limit access to the airport.

As such, the Director finds the County's argument that it needs a week's worth of time to file a NOTAM, review paperwork, and coordinate with other users is not credible or reasonable. The underlying premise of these restrictions is, effectively and by design, that ultralight activities cannot take place at LQK without adequate notice to every based and transient aeronautical user of the Airport. Problematically, the County has made ultralight access contingent on warning users that may need to "move away from" the very operating area the County imposed (we note, again, this location does not conform to the AFS-830 approved locations described earlier). In sum, the County has created the very condition for which it now says requires an additional week's worth of mitigations and restrictions before a single hour of ultralight access can be provided. While the FAA encourages the use of NOTAMs to support pilot situation awareness, the County's week-long delay reads as a continuation of the County's efforts to dissuade – if not prevent – ultralight operations at LQK, which amounts to an unreasonable and unjustly discriminatory restriction of access to LQK contrary to its Grant Assurance 22 obligations.

For these reasons, the Director finds that a requirement to schedule operations one week in advance is an unreasonable and unjustly discriminatory restriction on airport use that is in violation of Grant Assurance 22, *Economic Nondiscrimination.*

B) Requiring a $50 fee at the time of the scheduled flight and requiring proof of liability insurance for ultralight operations in the amount of $250,000.

The FAA acknowledges that an airport sponsor is entitled to seek recovery and operating costs of providing a public-use airport. However, consistent with federal obligations, an airport sponsor must impose nondiscriminatory aeronautical rates.

In this case, it appears that the $50 fee is only imposed on ultralight users. The County argues that the fee is to cover the costs associated with,

> …conducting safety briefings, issuing Notice to Airmen (NOTAM), notifying/assisting nearby aircraft that might like to move, escorting users to and from operations, monitoring radios, and covering some of the increased risk of conducting takeoff and landing operations in reduced proximity to personnel, buildings, and airplanes. These are costs not incurred by other users.

(FAA Exhibit 1, Item 4, p. 3).

The County also claims that the same fee is applied to the handling of other aircraft and references the website (FAA Exhibit 1, Item 9, p. 4). However, the Director reviewed the County's website and noted that the only other fee mentioned was a ramp handling fee for King Air aircraft. It also noted that the fee would be waived if the aircraft were to purchase fuel.[7] The Director disagrees with the County's justification that other aircraft require a similar handling fee, since the ramp handling of a King Air is not comparable to the allegedly increased workload to handle the ultralights claimed by the County.

The Director finds the County's justification for the fee on ultralights is not credible. Further, the administrative record contains no evidence that the operating costs, referenced above, would only be incurred as a result of ultralight users. Therefore, the Director finds the $50 fee imposed on ultralight users to be unreasonable and unjustly discriminatory.

Regarding insurance, the Director acknowledges that airport owners and operators are exposed to high potential liability in the event of injury or damage to property as a result of an aircraft accident or incident on or adjacent to the airport. It is an airport sponsor's right to protect itself from exposure to such liability as long the liability insurance requirements are applied reasonable and not unjustly discriminatory manner. In addition, the type of liability insurance must be available on reasonable terms. In the record, the County claims that insurance is required for "…all operations in reduced proximity to hangars, equipment, and personnel. This includes hangar tenants, airshow participants, and businesses." (FAA Exhibit 1, Item 9, p. 3).

Based on the record, the County requires ultralight users to have insurance in the amount of $250,000 (FAA Exhibit 1, Item 9, p. 3). However, Guinn states that ultralight insurance is "…only provided by one company which means they can set their price. It's only available for $1,000,000.00 coverage with no way to reduce it to $250,000.00." (FAA Exhibit 1, Item 2, p. 7). The FAA has determined that it is unreasonable to require liability insurance that is only available from one insurance provider and not available in a competitive marketplace. In *Jason Theuma and Paragon Skydive, LLC. v. State of Arizona*, the Associate Administrator found "that skydiving liability insurance coverage as prescribed in the lease is not available on reasonable terms. While ADOT [Arizona Department of Transportation] did mention two insurance brokers/providers in the initial pleadings, the Associate Administrator is not convinced that they represent two independent sources and therefore do not demonstrate a current competitive marketplace sufficient to pass the reasonability standard." [*Jason Theuma and Paragon Skydive, LLC. v. State of Arizona*, FAA Docket 16-19-16, Final Agency Decision, p.18, (March 2, 2023)].

[7] https://www.co.pickens.sc.us/departments/airport/index.php

However, Guinn provides no evidence to support his claim that the insurance is only provided by one company and only in the amount of $1,000,000. On the other hand, the County does not argue that the $250,000 ultralight liability insurance is available on the competitive marketplace. In regard to insurance requirements, the Associate Administrator has also found "an airport sponsor has an obligation to demonstrate that its lease requirements are reasonable, applicable, and clear on why the requirement is necessary, particularly when the tenant is questioning its validity." (*Id*. at 20).

As the County points out, other aeronautical users are required to maintain liability insurance in a "reasonable amount" per the County's municipal code, identified in *Chapter 6 – Aviation*. However, it does not specify what a reasonable amount is for an ultralight or other users of the Airport. What is considered "reasonable" is not defined or prescribed anywhere for other airport users, although an amount of $250,000 is noted in the "Ultralight Rules" (e.g. SOP). Therefore, the County has presented no evidence of a direct comparison of the insurance requirements for different aeronautical users such that the Director can conclude the $250,000 amount is reasonable and not unjustly discriminatory.

The County claims that the ultralight liability insurance is required due to the "reduced proximity to hangars, equipment and personnel" and claims that it requires the same of any other similarly located aircraft user. The Director takes two issues with this reasoning. First, the reduced proximity is a self-imposed requirement by the County, and as found in Issue 1, the County is in violation of its federal obligations for requiring ultralight operations in an unsafe location. Presumably, when the County updates its landing area for ultralights, the reasoning behind the insurance requirement may not be valid. Secondly, the County's examples of other users that require insurance due to the location near buildings are not similar. Air shows, hangar tenants, and businesses are not similarly situated to an ultralight operator *See Skydive Sacramento v. City of Lincoln*, FAA Docket No. 16-09-09, Director's Determination, p. 27, (May 11, 2011) *citing National Airlift Support Corp. v. Fremont County*, FAA Docket, No. 16-98-18, Final Decision and Order (September 20, 1999); and *Royal Air v. City of Shreveport*, FAA Docket No. 16-02-06, Director's Determination, (January 9, 2004).

While the Director does not object to requiring liability insurance for aircraft operators, the County must ensure the requirement is reasonable (available in the competitive marketplace) and equitably applied to similarly situated operators in order not to violate Grant Assurance 22.
In consideration of the above, the Director finds the County to be in violation of Grant Assurance 22, *Economic Nondiscrimination,* by its unreasonable and unjustly discriminatory application of its ultralight liability insurance requirements.

C) Requiring users to have a VHF radio and to establish two-way contact with Pickens County Airport via radio before entering the airspace.

The "Ultralight Rules" (e.g. SOP) proposes requiring ultralight operators to use a VHF radio. While radio use is encouraged for safety, AFS-830 has determined this requirement is not consistent with federal regulations.[8] By mandating radio use exclusively for ultralights, the SOP

[8] Under 14 CFR part 103, ultralight operators are not required to use a radio, and this requirement is similarly not mandated in Class G (uncontrolled) airspace, such as at LQK. Furthermore, FAA Advisory Circular 90-66B explicitly describes radio use by non-communicating aircraft (including gliders, balloons, and ultralights) as optional, clarifying that these types of aircraft are not required to transmit on the Common Traffic Advisory Frequency.

imposes a unique and unjustified operational burden not required of other airport users (FAA Exhibit 1, Item 13, p. 3).

The Director also notes that ordinance *Sec. 6-77. - Regulations governing ultralight vehicle operations*, paragraph B provides that "All ultralight vehicles operating at the airport shall be equipped with an operational two-way radio. In lieu of a two-way radio, the pilot must notify the airport manager of flight intentions before operating on or in the vicinity of the airport." While the first portion of the regulation is an unacceptable requirement, as described in the foregoing paragraph – the latter requirement to notify the airport manager may be acceptable.

Lastly, the Director acknowledges that ASO-620 apparently asserted to the County that two-way radio communications requirements for ultralights might be a viable mitigation "…to help predict and avoid incoming or exiting air traffic." (FAA Exhibit 1, Item 4, Exhibit D). The Director does not disagree. However, if there are legitimate safety concerns regarding the operation of certain aircraft at the Airport, the County must coordinate with the appropriate FAA office (FAA Flight Standards), which could then assist with any assessment if necessary and with the development of appropriate mitigations, including two-way radio communications, if justified. This coordination with the FAA Flight Standards office is essential because the imposition of a restriction or an operational requirement may introduce unsafe conditions or create safety risks.

In this case, AFS-830 has already determined that ultralight operations at the Airport can be conducted with an ELoS using existing FAA regulations, guidance, and operational procedures and that no additional or unusual measures are required (FAA Exhibit 1, Item 2, Exhibit B). Thus, imposing additional requirements or conditions for access, such as requiring two-way radio communications, is unreasonable. Moreover, imposing two-way communications on the ultralight operator when, under the applicable FARs, no such requirement exists and additional restrictions over and above those required by FAA regulation are not placed on other aircraft or operators, is also unjustly discriminatory.

The County, by arbitrarily adding unnecessary two-way radio equipage and/or communication requirements as a condition of access for ultralight users, has engaged in unreasonable and unjustly discriminatory actions as described above. Therefore, the Director finds the County in violation of its federal obligations under Grant Assurance 22, *Economic Nondiscrimination*.

VIII. CONCLUSION

Upon consideration of the submissions, responses by the parties, the administrative record herein, applicable law and policy, and for the reasons stated above, the Director of the FAA Office of Airport Compliance and Management Analysis finds and concludes:

1) The County is currently in violation of Grant Assurance 22, *Economic Nondiscrimination,* for unreasonably requiring Guinn to operate in close proximity to personnel, buildings, and airplanes despite AFS-830 identification of two operating areas on the airfield that are not in proximity and do not require additional mitigations.

2) The County is currently in violation of Grant Assurance 22, *Economic Nondiscrimination,* by requiring an FAA AME examination/letter of observation for an ultralight user as a condition of access to a federally obligated airport.

3) The County is currently in violation of Grant Assurance 22, *Economic Nondiscrimination,* by implementing a SOP/Ultralight Rules that include various unreasonable restrictions and limitations on ultralight users, including arbitrary insurance requirements, flight scheduling lead times, an inequitably applied $50 fee, and VHF radio communications.

ORDER

ACCORDINGLY, it is ordered that:

1. Pickens County will immediately permit Guinn to conduct ultralight operations at LQK in the location(s) determined by AFS-830, see Issue 1.
2. Pickens County shall present a corrective action plan (CAP) within 30 days from the date of this order, detailing how the County intends to return to compliance with *Grant Assurance* 22 concerning the findings of violation described in Issue 2 and Issue 3.
3. Pending the FAA's approval and implementation of the CAP, the FAA Director of the Office of Airports Compliance and Management Analysis will recommend to the FAA Director of the Office of Airports Planning and Programming to withhold approval of any applications submitted by Pickens County for Airport Improvement Program (AIP) pursuant to the Airport and Airway Improvement Act of 1982 (AAIA), funding discretionary projects authorized under 49 U.S.C. § 47115.
4. All Motions not expressly granted in this Determination are denied.

RIGHT OF APPEAL

This Director's Determination under FAA Docket No. 16-23-18 is an initial agency determination and does not constitute a final agency decision and order subject to judicial review under 49 U.S.C. § 46110. [14 CFR § 16.247(b)(2).] A party to this proceeding adversely affected by the Director's Determination may file an appeal with the Associate Administrator within 30 days after the date of service of the initial determination. If no appeal is filed within the time period specified, the Director's Determination becomes the final decision and order of the FAA without further action. A Director's Determination that becomes final because there is no administrative appeal is not judicially reviewable. [14 CFR § 16.33.]

Digitally signed by MICHAEL W HELVEY
Date: 2025.08.07 14:41:09 -04'00'

Michael Helvey
Director, Office of Airport Compliance
and Management Analysis

***Christopher (Criss) Guinn*, Complainant**

v.

***Pickens County, South Carolina*, Respondent**

FAA Docket No. 16-23-18

INDEX OF ADMINISTRATIVE RECORD

The following items constitute the administrative record in this proceeding:

FAA EXHIBIT 1

Item 1 - FAA Grant Assurances

Item 2 - *Christopher (Criss) Guinn v. Pickens County, SC* Complaint, dated August 23, 2023

Exhibit A (Doc. 3) - Email from Salinas to Guinn in response to pre complaint resolution request, dated November 30, 2021 [date on Compliant document list incorrect]

Exhibit B (Doc. 4) - The FAA Memorandum regarding proposed airport use for ultralights at LQK, dated August 4th, 2022

Exhibit C (Doc 5) - The FAA response to airport request for informal complaint appeals process, dated June 6th, 2023

Exhibit D (Doc. 6) - The FAA response to the airports request for review of Part 13 determination concerning ultralight access, dated June 14, 2023

Exhibit E (Doc. 7) - Email from the FAA to Salinas requesting CAP, dated June 23, 2023

Exhibit F (Doc. 8) - Letter from Salinas indicating amendment to county code for off runway landings is required prior to ultralight operations, dated July 13, 2023

Exhibit G (Doc. 9) - Ultralight SOPs From Pickens County Airport, undated

Item 3 - FAA Notice of Docketing, dated September 11, 2023

Item 4 - Pickens County's Motion for Summary Judgment FAA Docket 16-23-18, dated September 29, 2023

Exhibit A Pickens County Ordinance Passed by Pickens County Council Third and Final Reading on August 7, 2023

Exhibit B Part 13 Determination issued to LQK, dated January 20, 2023

Exhibit C Email from Regional Flight Surgeon, Arnold A. Angelici, dated July 27, 2023

Exhibit D Email from FAA Southern Region Regarding SOP Guidance, dated January 14, 2022

Exhibit E Ultralight SOPs from Pickens County Airport

Item 5 - Christopher (Criss) Guinn's Answer to Motion for Summary Judgment FAA Docket 16-23-18, dated October 6, 2023

Exhibit A Email from Regional Airport Compliance Specialist, Keturah Pristell, to Mr. Salinas, dated December 15, 2022

Exhibit B Part 13 Determination issued to Pickens County Airport dated, January 20, 2023

Exhibit C ASO-620 Report Notice of Noncompliance issued to Pickens County Airport, dated May 4, 2023

Exhibit D Email from Guinn to Pickens County Airport about ultralight access at the airport and request for resolution, dated November 30, 2021

Exhibit E Videos of Pickens County Council Meetings 2nd and 3rd reading

Exhibit F Affidavit of Christopher David Guinn, dated October 6, 2023

Exhibit G Ultralight SOP from Pickens County Airport

Exhibit H Photograph of Proposed Landing Zone 1

Exhibit I Photograph of Proposed Landing Zone 2

Exhibit J Audio of Pickens County Council Meetings 2nd reading

Exhibit K Audio of Pickens County Council Meetings 3rd reading

Item 6 - FAA Order to Proceed with the Pleadings, dated February 8, 2024

Item 7 - Picken's County's Answer to the Complaint, dated February 21, 2024

Exhibit A Pickens County Ordinance Passed by Pickens County Council Third and Final Reading on August 7, 2023

Exhibit B Ultralight SOP from Pickens County Airport

Exhibit C Email from FAA Southern Region Regarding SOP Guidance, dated January 14, 2022

Exhibit D Part 13.1 Report for Asheville Regional Airport, dated June 7, 2018

Exhibit E Email from Regional Flight Surgeon, Arnold A. Angelici, dated July 27, 2023

Item 8 - Christopher (Criss) Guinn's Reply to the Answer to the Complaint, dated February 27, 2024

Exhibit A Part 13.2 Complaint – Corrective Action Plan Review and Response at Wickenburg Municipal Airport (E25), dated February 23, 2024

Item 9 - Picken's County's Rebuttal to Reply, dated March 8, 2024

Item 10 - Pickens County Airport (LQK)'s Minimum Operating Standards

Item 11 - Airport Master Record (5010) for Pickens County Airport (LQK), dated October 5, 2023

Item 12 - Pickens County Airport (LQK) Grant History, dated August 6, 2025

Item 13 - AFS-830 Memo to ACO-1, dated May 20, 2025

Item 14 - FAA Notice of Extension of Time, dated July 02, 2024

Item 15 - FAA Notice of Extension of Time, dated September 09, 2024

Item 16 - FAA Notice of Extension of Time, dated November 11, 2024

Item 17 - FAA Notice of Extension of Time, dated January 14, 2025

Item 18 - FAA Notice of Extension of Time, dated February 18, 2025

Item 19 - FAA Notice of Extension of Time, dated April 16, 2025

Item 20 - FAA Notice of Extension of Time, dated May 22, 2025

Item 21 - FAA Notice of Extension of Time, dated June 17, 2025

Item 22 - FAA Notice of Extension of Time, dated July 2, 2025

Item 23 - FAA Notice of Extension of Time, dated July 16, 2025

Item 24 - FAA Notice of Extension of Time, dated August 1, 2025

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 7, 2025, I caused to be emailed a true copy of this Director's Determination for FAA Docket No. 16-23-18 addressed to:

FOR THE COMPLAINANT

Christopher D. Guinn
165 City View Circle
Pickens, SC 29671
harleytrip@gmail.com

FOR THE RESPONDENT

Pickens County Airport Administrator Attn: Carlos Salinas
240 Airport Rd
Liberty, SC 29657
csalinas@co.pickens.sc.us

Pickens County Administrator Attn: Ken Roper
222 McDaniel Ave, B-2
Pickens, SC 29671
kenr@co.pickens.sc.us

Copy to:
FAA Part 16 Airport Proceedings Docket (AGC-600)
FAA Office of Airport Compliance and Management Analysis (ACO-100)
FAA Southern Region Airports Division (ASO-620)

D. Hinnant

Danielle Hinnant
Office of Airport Compliance
and Management Analysis