

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²¹

Margaret H. McFarland,

Deputy Secretary.

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Review Under 49 U.S.C. 41720 of United/US Airways Agreements

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Notice requesting comments.

SUMMARY: United Air Lines and US Airways have submitted agreements to the Department for review under 49 U.S.C. 41720. That statute requires certain types of agreements between major U.S. passenger airlines to be submitted to the Department at least thirty days before the agreements' proposed effective date but does not require Department approval for the agreements. The Department may extend the waiting period for either or both of the United/US Airways agreements at the end of the thirty-day period or take other appropriate action. The Department is inviting interested persons to submit comments that would assist the Department in determining whether further action should be taken.

DATES: Any comments should be submitted by August 15, 2002.

ADDRESSES: Comments must be filed with Randall Bennett, Director, Office of Aviation Analysis, Room 6401, U.S. Department of Transportation, 400 7th St. SW., Washington, DC 20590. Late filed comments will be considered to the extent possible. To facilitate consideration of comments, each commenter should file three copies of its comments.

FOR FURTHER INFORMATION CONTACT: Thomas Ray, Office of the General Counsel, 400 Seventh St. SW., Washington, DC 20590, (202) 366-4731.

SUPPLEMENTARY INFORMATION: Congress enacted a provision, 49 U.S.C. 41720, that requires certain kinds of joint venture agreements among major U.S. passenger airlines to be submitted to the Department at least thirty days before they can be implemented. This requirement covers code-sharing agreements, long-term wet leases involving a substantial number of aircraft, and agreements concerning

frequent flyer programs. The requirement would also cover certain other significant cooperative working arrangements designated by regulation. By publishing a notice in the **Federal Register**, we may extend the waiting period by 150 days with respect to a code-sharing agreement and by sixty days for the other types of agreements covered by the advance-filing requirement. At the end of the waiting period (either the thirty-day period or any extended period implemented by us), the parties are free to implement their agreement. We may also allow the joint venture agreement to be implemented before the thirty-day waiting period expires.

The statute does not require the parties to obtain our approval before they implement an agreement. To block two airlines from implementing an agreement, we would normally need to issue an order under 49 U.S.C. 41712 (formerly section 411 of the Federal Aviation Act) in a formal enforcement proceeding that determines that the agreement's implementation would be an unfair or deceptive practice or unfair method of competition that would violate that section.

We have not adopted regulations expanding the scope of the filing requirement or establishing procedures for our review of agreements submitted under 49 U.S.C. 41720.

In the past we have informally conducted the reviews authorized by 49 U.S.C. 41720. The airline parties to a joint venture agreement have filed the agreement directly with the Department staff that reviews them, we have not established a docketed proceeding on any such agreement, and we have not sought comments from other parties. In determining whether to extend the waiting period (or start a formal proceeding under section 41712), we have focused on whether the agreement would reduce competition. Our review is analogous to the review of major mergers and acquisitions conducted by the Justice Department and the Federal Trade Commission under the Hart-Scott-Rodino Act, 15 U.S.C. 18a, since we are considering whether we should institute a formal proceeding for determining whether an agreement would violate section 41712. We consult the Justice Department as part of our review, and we avoid unnecessary duplication of efforts by the Justice Department and this Department. If an agreement appears to violate the antitrust laws, the Justice Department may file suit and seek injunctive relief against the parties to the agreement.

On July 25 United and US Airways submitted code-share and frequent flyer

program reciprocity agreements for review under 49 U.S.C. 41720. We still intend to conduct an informal review, but, due to the public interest in these agreements, we want to give interested persons an opportunity to submit comments. The views of outside parties may assist us in determining whether to extend the waiting period and whether either agreement presents serious issues under section 41712.

Since the statute requires us to decide within thirty days of filing to determine whether to extend the waiting period, we request that any comments be filed by August 15. To assist the commenters, United and US Airways have prepared a redacted copy of the agreements that will be available for review and copying in room PL-401 of the Nassif Building, located in the northeast corner on the Plaza level, 400 7th St. SW., Washington, DC. We are making the copy available there, even though this case is not docketed, because it is readily accessible to the public and has a copying machine for public use.

Issued in Washington, DC on August 1, 2002.

Read C. Van de Water,

Assistant Secretary for Aviation and International Affairs.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice For Waiver Of Aeronautical Land-use Assurance Capital Airport, Springfield, IL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is considering a proposal to change a portion of airport land from aeronautical use to non-aeronautical use and to authorize the sale/exchange of the airport property. The proposal consists of Parcel 16-3-F1, a 3.169 acre portion of Parcel 16-3-F, and Parcel 14-1, a 0.636 acre portion of Parcel 14. Presently the land is vacant and used as open land for control of FAR Part 77 surfaces and compatible land use and is not needed for aeronautical use, as shown on the Airport Layout Plan. Parcel 16-3-F (57.17 acres) was acquired in 1970 with partial Federal participation. Of the original 57.17 acres, 44.46 acres was purchased with Federal Participation. 12.71 acres of the original 57.17-acre parcel have been

²¹ 17 CFR 200.30-3(a)(12).

previously released from Federal obligations to the Illinois Department of Transportation for highway Right-of-Way. Parcel 14 (215.70 acres) was acquired in 1946 without federal participation. Of the original 215.70 acres, 9.68 acres of this parcel have been previously released from Federal obligations to the Illinois Department of Transportation for highway Right-of-Way. It is the intent of the Springfield Airport Authority (SAA) to exchange Parcel 16-3-F1 for Parcel 14-1 (collectively 3.805 Acres) with the City of Springfield for the R.O.W. currently owned by the City of Springfield (1.958 Acres) that is located adjacent to the southeast quadrant General Aviation development area. While the acreages exchanged are not equal, the benefit the SAA will obtain from the acquisition of the 1.958 acres of R.O.W. will outweigh the shortfall in releasing 3.805 acres, as the new acquisition will allow for further General Aviation development in the south quadrant area. This notice announces that the FAA intends to authorize the disposal/exchange of the subject airport property at Capital Airport, Springfield, IL. Approval does not constitute a commitment by the FAA to financially assist in disposal of the subject airport property nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. In accordance with section 47107(h) of Title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

DATES: Comments must be received on or before September 4, 2002.

FOR FURTHER INFORMATION CONTACT: Richard Pur, Program Manager, 2300 East Devon Avenue, Des Plaines, IL, 60018. Telephone Number 847-294-7527/FAX Number 847-294-7046. Documents reflecting this FAA action may be reviewed at this same location by appointment or at the Springfield Airport Authority, Capital Airport, 1200 Capital Airport Drive, Springfield, IL 62707.

SUPPLEMENTARY INFORMATION: The following legal description of the proposed land sale is:

Parcel 16-3-F1 (Part of Original Tract 16-3-F)

Part of the North Half of the Southwest Quarter of Section 16, Township 16 North, Range 5 West of the Third Principal Meridian, further described as follows:

Commencing at an axle marking the Southwest Corner of the North Half of the Southwest Quarter of said Section 16; thence North 00 degrees 54 minutes 59 seconds West, 639.06 feet along the west line of said Southwest Quarter, Section 16 to the Point of Beginning; thence North 00 degrees 54 minutes 59 seconds West, 234.84 feet along said west line; thence South 53 degrees 49 minutes 46 seconds East, 1080.74 feet; thence along a tangential curve to the left having a radius of 260.00 feet, arc length of 204.84 feet and a chord which bears South 76 degrees 23 minutes 58 seconds East, 199.58 feet; thence North 81 degrees 01 minutes 50 seconds East, approximately 294.57 feet to the west line of the Northeast Quarter of the Southwest Quarter of said Section 16, approximately 80.80 feet; thence South 81 degrees 01 minutes 50 seconds West, approximately 283.22 feet; thence along a tangential curve to the right having a radius of 340.00 feet, arc length of 267.87 and a chord which bears North 76 degrees 23 minutes 58 seconds West, 260.99 feet; thence North 53 degrees 49 minutes 46 seconds West, 797.21 feet; thence South 89 degrees 04 minutes 04 seconds West, 177.94 feet to the Point of Beginning, containing approximately 3.169 acres, more or less. Said parcel also being shown by the plat attached hereto and made a part hereof.

Parcel 14-1 (Part of Original Tract 14)

Part of the North Half of the Southwest Quarter of Section 16, Township 16, North, Range 5 West of the Third Principal Meridian, further described as follows:

Commencing at an axle marking the Southwest Corner of the North Half of the Southwest Quarter of said Section 16; thence North 00 degrees 54 minutes 59 seconds West, 639.06 feet along the west line of said Southwest Quarter, Section 16; thence North 00 degrees 54 minutes 59 seconds West, 234.84 feet along said west line; thence South 53 degrees 49 minutes 46 seconds East, 1080.74 feet; thence along a tangential curve to the left having a radius of 260.00 feet, arc length of 204.84 feet and a chord which bears South 76 degrees 23 minutes 58 seconds East, 199.58 feet; thence North 81 degrees 01 minutes 50 seconds East, approximately 294.57 feet to the west line of the Northeast Quarter of the Southwest Quarter of said Section 16 also being the Point of Beginning; thence continuing North 81 degrees 01 minutes 50 seconds East, approximately 329.52 feet to a point on the southwesterly right-of-way line of

Relocated Township Road 810; thence along said southwesterly right-of-way line, along a non-tangent curve to the right having a radius of 750.09 feet, arc length of 82.65 feet and a chord which bears South 23 degrees 24 minutes 08 seconds East, 82.61 feet; thence South 81 degrees 01 minutes 50 seconds West, approximately 361.45 feet to the west line of the Northeast Quarter of the Southwest Quarter of said Section 16; thence north along the west line of the Northeast Quarter of the Southwest Quarter of said Section 16, 80.80 feet more or less to the point of Beginning. Containing 0.636 acres, more or less. Said parcel is shown by the plat attached hereto and made a part hereof.

This legal description does not represent a boundary survey and is based on a suggested land description provided by the SAA.

Issued in Des Plaines, Illinois on July 10, 2002.

Philip M. Smithmeyer,

Manager, Chicago Airports District Office, FAA, Great Lakes Region.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on Release of Federal Property at Columbia Metropolitan Airport, Columbia, SC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: Under the provisions of Title 49, U.S.C. Section 47153(c), notice is being given that the FAA is considering a request from the Richland-Lexington Airport District to waive the requirement that a 3.95 acre parcel of Federal property, located at the Columbia Metropolitan Airport, be used for aeronautical purposes.

DATES: Comments must be received on or before September 4, 2002.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, Attn: Aimee A. McCormick, Program Manager, 1701 Columbia Ave., Suite 2-260, Atlanta, GA 30337-2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Frank Manning, General Council for Richland-Lexington Airport District at the following address: 125-A Summer Lake Drive