



U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of the Regional Administrator
Eastern Region

1 Aviation Plaza
Jamaica, NY 11434

May 17, 2022

Mr. Andrew Barr
Cooley LLP
1144 15th Street, Suite 2300
Denver, CO 80202-2686

Dear Mr. Barr:

The Federal Aviation Administration (FAA) has received your email sent to David Fish, Director of the Airports Division in the Eastern Region, asking how the Town of East Hampton could potentially withdraw or delay the deactivation of East Hampton Airport in accordance with a Temporary Restraining Order (TRO) issued by the New York State Supreme Court. In responding to your request, we have reviewed the court's order, which enjoins the Town of East Hampton from "deactivating or closing HTO Airport on May 17, 2022, or any date thereafter pending a determination on Petitioners' motion for a preliminary injunction." You have asked how East Hampton could potentially withdraw or delay the deactivation of East Hampton Airport in accordance with the state court TRO.

In response to your question, the paramount concern of the FAA is assuring aviation safety, including during the process of the activation or deactivation of an airport pursuant to 14 CFR part 157. The deactivation of the East Hampton airport is a process that cannot be quickly, and more importantly safely stopped, or undone, by the FAA, as certain steps have already been taken, including changing the airport identifier and creating new special instrument procedures that pilots have been advised to follow. Our February 2, 2022 letter to the Town indicated that "the deactivation of the airport has genuine consequences. Once an airport is deactivated, it cannot be reopened with the same facilities and procedures simply by reactivating it....[T]he concrete actions that are taken upon deactivation; actions that, once taken, cannot simply be reversed.".... "The actions that have already been taken will result in the following circumstances:

1. The Location Identifier of East Hampton Airport (HTO) will cease to exist in our system at 11:59 PM on May 18, 2022 and will be replaced with the Airport Identifier of JPX. We can't simply undo this. Any reference to HTO, the old identifier, (Coded Departure Routes, instrument flight procedures, VFR charts etc.) will cease to exist. This means pilots cannot use HTO as an origin or destination on a flight plan or file a flight plan to HTO. This presents aviation safety risks in the congested New York airspace.

2. The airspace designated to HTO will not be on the new aeronautical charts scheduled for publication on May 19, 2022.
3. The current Instrument Approach Procedures (IAP) will decommission on May 18, 2022. The final deadline that would have permitted pulling this back was missed. These procedures were rebuilt as special instrument flight procedures using a third party provider, Flight Tech Engineering. The special instrument flight procedures have been flight validated and are set to publish as specials on May 19, 2022.
4. Air Traffic Control (N90) has been trained and the Letter of Agreement (LOA) between the Town and the FAA has been developed and signed for the Airport (JPX). Any change to the strategy would require retraining the controllers at N90. Even if the current IAP could be revived, Controllers must be re-trained in the former procedures. This training in the new procedures and subsequent retraining in the old procedures is likely to cause confusion for the controllers which will create an unacceptable safety risk.
5. At this juncture, given the fact that the FAA cannot safely forestall several aspects of the deactivation process, including the location identifier and instrument approaches, it is more prudent to continue operating the airport under the JPX identifier after May 19, 2022. This action would provide for airspace definition in accordance with the Part 71 process [14 CFR part 71]. With a definitive Airport and Location Identifier, all interested parties can file flight plans to the airport, and all coded departure routes that reflect JPX will be applicable for use immediately on May 19, 2022. The LOA that has already been signed will remain valid and the controllers will not need to be retrained.

As a result of the actions already taken and processes in place, the FAA has significant concern that the Court and the parties have introduced a major safety issue into this complex airspace system. FAA is working on the processes to enable the Town to operate JPX and implement the substance of the court's order while maintaining safety in the National Airspace. We trust that you will communicate these concerns to the Court and keep them in mind going forward.

Sincerely,

Marie Kennington-Gardiner
Regional Administrator