Opponents want court to review Trenton-Mercer Airport expansion plan

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Group asks court to review FAA approval. County wants updates to terminal, parking and more

File photo: Trenton-Mercer Airport

Opponents of a plan to expand Trenton-Mercer Airport stepped up their campaign and now want an appeals court to review the Federal Aviation Administration's recent approval of the project.

A petition to the Third Circuit Court of Appeals was filed late last month by the group Trenton Threatened Skies, plus 27 named individuals, one homeowners association, a local business and two towns on the Pennsylvania side of the Delaware River.

The group is challenging the FAA's "Finding of No Significant Impact" when earlier this year it approved a plan by airport owner Mercer County to expand the terminal building, redesign traffic patterns, build a parking garage, and relocate a fire-fighting facility.

The county says the changes are needed because the existing terminal is much too small for current passenger volumes, and that the project will result in only a modest increase in air traffic.

But opponents say the project is a Trojan horse for a much bigger increase in flights, which will increase noise, air pollution and traffic congestion in a densely populated community. They also say construction would disturb a plume of toxic "forever chemicals" beneath a former military base, now a Superfund site, next to the airport. They predict that PFAS chemicals there would contaminate a local creek and the Delaware River about two miles away.

Basis of the objection

"We are asking the court to review the FAA's approval of Mercer County politicians and officials' disingenuous premise that this massive expansion project, along with all of the expansion projects at the airport, will have no significant impact on the surrounding region," the campaign group said in a statement.

It argued that the agency failed to consider a big expected increase in the volume of takeoffs and landings, and that it didn't evaluate potential PFAS contamination during construction. It said the airport is already not in compliance with state and federal stormwater rules.

"The FAA's Environmental Assessment of the project failed to account for the substantial increase in aircraft operations that expanding the terminal from

two gates to four gates will allow," Trenton Threatened Skies said in a statement.

The project would result in an additional 36 takeoffs and landings a day between 2020 and 2035 among the commercial, private and military aircraft using the airport, bringing the daily total to 261 by the end of the period, according to the county. Within the total, commercial flights are expected to increase by six a day to 34.

Those forecasts have not changed since the county adopted its Airport Master Plan in 2018, said county spokesperson Julie Willmot, in March. She said air traffic is projected to increase at Trenton regardless of the proposed terminal expansion.

More air traffic

"The Master Plan forecasts growth in corporate, private, military and itinerant air traffic, none of which use an airport terminal, and also has no bearing on the terminal project," she said. "The forecast for commercial flights, the only ones that would use a terminal, has not changed since the master plan adoption."

The county has no comment on the appeal because it is not directly involved in that petition to the court, Willmot said Friday.

Rich Preston, one of those now asking for the court to review the case, works in Pennington and lives across the river in Yardley, Pennsylvania. Preston said he is already unhappy with jets that fly over his house early in the morning and late at night, and fears that the airport project will worsen noise and air pollution.

He said the FAA failed to consider the cumulative impacts of all the different aspects of the airport plan.

"If they applied the law as it's supposed to be done, they would look at these projects cumulatively," said Preston, 65, who owns a small engineering business. "We think the court should tell the FAA: 'You need to look at realistic expectations of the capacity of this airport and do the analysis for these cumulative effects.' For them to just rubber stamp this plan is, for me, inappropriate. They should be carrying out the analysis and looking out for the communities as well as for the safety of the air traffic."

He's looking for the court to order the FAA to conduct a full Environmental Impact Statement on the effects of the airport project, to replace the less thorough Environmental Assessment which led to the agency's finding of "no significant impact."

Steven Taber, an attorney for Trenton Threatened Skies, said petitions seeking to overturn FAA decisions are fairly common but do not often succeed in getting the agency to revisit a ruling.

Rather, he said, the petition is more likely to prompt local discussion of a project that may lead to solutions between the parties.

"We want the court to review the decision that the FAA made that allows the expansion of the terminal to go forward," Taber said. If the petition succeeds, the court would likely require the FAA to redo its Record of Decision, he said.

The petition's rationale will focus on specific plans including the increase in the number of passenger terminal gates from two to four, and the potential damage to public health if PFAS chemicals spread during construction.

"There wasn't enough analysis done in the Environmental Assessment of the terminal expansion," he said.

'Beginning of the real fight'

But while the petition is pending before the court, there's nothing to stop construction starting, Taber said. "The petition for review does not operate as a stay on the construction," he said.

To have any chance of stopping the start of construction, opponents would have to seek a stay from the FAA, and then if that didn't succeed, take the same request to the court. "Those are very difficult to get," he said, and his clients would have to decide whether to pursue that action.

Whether or not the new petition succeeds, opponents of the airport expansion have other plans to stop the project, said George Polgar, a spokesman for Trenton Threatened Skies.

"We view this as the beginning of the real fight to stop this wrongheaded political scheme before it really does damage to the region," Polgar said. He predicted that the group will bring in "more resources" to argue that the well-being of citizens is "very low on the priority list."