

Disruptive Aeronautics

Taking a page from Uber and Airbnb, JetSuiteX plans to offer low-cost seats on private jets flying out of Santa Monica Airport — even if the city says no

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While the city of Santa Monica’s standoff with the federal government over the fate of Santa Monica Airport awaits its days in court, a more immediate patch of turbulence illustrates the divisive row between municipal and federal authority — or, at least, the attached commercial and strategic interests.

JetSuite, which has been operating private charter flights out of SMO for the past several years, is now gearing up to launch an SMO outpost of JetSuiteX — a “public charter”

service offering the convenience and comfort of private jet travel at prices competitive with commercial air travel out of LAX. JetSuiteX aims to begin flight service from SMO to Las Vegas, Carlsbad and San Jose on Feb. 6.

Compared to the thousands of dollars per-hour you’d pay for a private charter, JetSuiteX individual fares start as low as \$29 each way. And the 1.5-hour schlep to make it through security becomes a 15-minute advance arrival to fly with upgraded service on small carriers (four to 30 seats). In a Jan. 14 article, forbes.com heralded the company as “redefining private jet travel”; comparisons to Uber disrupting taxi service and Airbnb upending the hotel business come to mind.

There’s just one problem: The city has rejected JetSuiteX’s application to operate out of SMO. On Jan. 12 the city manager’s office made public a letter to the company outlining its “incomplete” paperwork.

Presumably, JetSuiteX (operating as “Delux Public Charter”) would need the approval and cooperation of the airport in order to fly. With the advertised launch date less than two weeks away, time is running out. However, as of this writing JetSuite showed no signs of retreat, having already sold out tickets — ranging from a \$219 SMO to Vegas “plus” fare down to just \$29 from SMO to Carlsbad — on several days in February.

JetSuite CEO Alex Wilcox is unfazed by the city’s rejection.

“We’ve got a federal right to operate there, and that’s our position. We’re going to show up on the 6th of February and take advantage of our right,” he told The Argonaut.

Santa Monica City Manager Rick Cole, of course, sees things differently: “They’re selling tickets to something they don’t have a legal right to do,” he said.

The Devil in the Details

In a Jan. 17 letter to SMO Manager Stelios Makrides, JetSuite makes a critical distinction between “commercial” operations, as the city has characterized JetSuiteX, and “public charters.”

According to Capt. Ross Aimer, a retired United Airlines pilot and CEO of Aero Consulting Experts (Disclosure: Aimer worked for JetSuite after retirement), herein lies the crux: A loophole JetSuiteX discovered in FAR 135¹ — a federal regulation that allows a sort of “public-private” charter.

“This allows JetSuite to operate out of an FBO [fixed-base operation, in this case Atlantic Aviation, one of the tenants currently fighting eviction from SMO]. It kind of bypasses the main airport, regular commercial flights. So they’re selling this as public charter,” Aimer said.

The day after the city received JetSuite’s letter, the council held a closed-door session with the interim city attorney — presumably to discuss pending cases with the FAA (over closure of the airport and the eviction of two FBO tenants), and the approaching specter of litigation over JetSuiteX.

City officials reported taking no public action during that meeting, but in a recent phone call with The Argonaut, Cole drew a hard line in the sand.

“We intend to vigorously work to keep them from beginning what we consider — until a [commercial] permit is considered — an illegal operation,” Cole said.²

“Regardless of their opinion, we are the regulatory body, and they don’t have a permit. We believe they have not sufficiently provided information upon which we can make a decision. In the meantime, they can’t start operating,” he continued.

While the city claims the company’s proposed commercial activity qualifies as “air carrier service” and must submit to an environmental analysis guided by the California Environmental Quality Act (CEQA), JetSuite counters that their JetSuiteX plans fall within the scope of the city’s EIR (in the airport’s 1983 Master Plan), does not “change the operation of the facility,” and is therefore exempt.

“They’re trying to put themselves in place of the FAA and regulate interstate commerce,” Wilcox said, calling the city’s rejection “a power grab” and likening it to the city council “putting up a blockade at every entrance to the 10 Freeway” and making drivers fill out an EIR.

“Our position is essentially that we have every federal authority to operate, the people of Santa Monica deserve to use their airport, and we’re going to fight hard to make sure they have every opportunity to do so,” Wilcox said.

¹ aiR footnote: This statement is absurd. JetSuiteX did not 'discover' a loophole, they simply choose to exploit it, and FAA is quietly sitting back and letting them proceed. The FARs (Federal Air Regulations) that FAA has created are loaded with contradictions, ambiguities, loopholes and all manner of elements intended to ensure that aviation is minimally regulated but with an illusion of aggressive regulation. Shame on you, FAA; you are a faux-regulator.

² aiR footnote: aiR footnote: A more urgent argument is that the airport has not prepared to handle an accident, even potentially a fire, with the 30-passenger Embraer aircraft to be flown by 'Delux Public Charter'. If the City were to casually grant approval for this scaled-up commercial passenger service, they will be taking on considerable risk and liability.

Both Sides of the Story

Both claims — JetSuite’s right to access the federal airspace system built with public dollars and the city’s right to regulate use of its airport — are reasonable, Aimer said.

In the city’s corner, he added, is the fact that SMO was created for private operation, “so I would think that SMO officials and the city have a very valid point, because now we’re kind of infringing on the intent of the operation of SMO.”

Residents concerned about noise and safety who might have accepted private jet charters run through Atlantic Aviation, he reasoned, may now take issue with so-called public charters.

“On the other hand,” Aimer added, “because FAA decides who operates in and out of the airport, if they agree [with JetSuite], they have a case too. I would think they both have a case, and perhaps it would have to come to a conclusion in court.”

For its part, the FAA sent a singular, cryptic response to various questions concerning its involvement in the dispute: “The FAA’s role is to ensure that airport sponsors comply with federal obligations,” reads the statement, which points to a 20-page document outlining “Assurances: Airport Sponsors” for grant recipients.

In other words, as in the battle over the city’s move to close the airport — wherein the FAA contends SMO received federal grant money and is therefore obligated to remain open until 2023 — it comes down to “grant assurances,” or Santa Monica’s obligations tied to its receipt of federal dollars.

Two related federal cases regarding the proposed closure of SMO (in which the FAA is conducting an investigation into the city’s actions) are scheduled for trial later this year, while a hearing on the FAA’s interim cease-and-desist-order issued in the evictions of two FBO tenants is set for a hearing on Feb. 2.

For the city, the handy exploitation of a loophole — backed by federal muscle — seems a troubling prospect if it opens the door to commercial operations at a private airport marked for closure.

National Network, Local Concern

Beneath all of this is the existential question of SMO.

Bill Semos, assistant director of Loyola Marymount’s MBA program and a 36-year airline industry veteran, put the current crisis in a broader context: Across the country, he explained, many once peripheral airports were expected to shut down before ultimately expanding (e.g., Love Field in Dallas, Chicago Midway, LaGuardia, Reagan National in D.C.).

“These airports became institutionalized into an aviation system nationwide, so it’s been very difficult to shut them down,” he said. “In the FAA’s view, it is an integrated air transport system across the country. These airports at all levels, from LAX down to the smallest ones, have a role to play in that.”

We are the only country in the world, Semos said, that does not have a national system of airports: ours are locally owned, making for a fractured network. “But the FAA, which has very,

very specific charges³ under the law and the role Congress has for them, they're obligated in their minds to keep this thing together," he said.

But the vigorous community opposition to jet service out of SMO, a topic covered extensively by this and other media outlets, is an uncommon situation.

"In this case you have a community saying, 'No, we don't want this.' This is unusual. ... An airport is a very, very important economic resource for the community," Semos said.⁴ On the other hand, SMO is part of a national air travel system⁵ — "so you have the makings of a great debate here."

'Pushing the Envelope'

In the meantime, Semos said it's clear that JetSuiteX is using ticket sales — and anticipated public outcry if operations don't start — to muscle through approvals.

"This smacks of someone, the company in question, always pushing the envelope," he said. "They have a very convenient location; they want to start offering more. It's in effect the building block of starting an airline."

Cole would agree, calling JetSuiteX's behavior "pretty typical of these so-called 'disruptive' technology companies," citing Uber, Lyft and Airbnb as examples of others that have tried to evade existing laws.

"This is the new style of corporate behavior: 'We're new, we're going to operate and see if we can't get out ahead of regulation,'" Cole said. "Since we've seen this pattern before, we know how to deal with it."

Cole said the city does not want to be in court and seeks "intelligent discussion" toward resolution, but he insists that the city's approval process remains intact.

"Even if we come to the conclusion that we're going to waive the [requirement for] environmental documents, they still can't have one in time to start on Feb. 6. So they'll either voluntarily comply with the process or we'll take enforcement action."

Asked whether that action means lawsuits, fines or even police blockades, Cole demurred, with swagger: "It's your job to ask that question, but I'm not going to answer."

³ aiR footnote: FAA's 'specific charges' come about when FAA, a captured regulator serving primarily aviation money, guides legislation through the Congressional process. FAA has been collaborating with the airline lobby for decades, and the result is routinely orders for FAA to draft more ambiguous regulations such as the one for air charters. Regulatory changes signed off by Congress in early 2012 included granting categorical exclusions, so that NextGen procedures could be implemented without environmental review.

⁴ aiR footnote: The aviation industry works hard to push the illusion that airports and aviation generate huge economic gains. They routinely ignore the huge costs imposed by the airports. In an airport such as Santa Monica, the non-aviation uses of the airport property are likely generated far more economic value than the airport itself.

⁵ aiR footnote: SMO is a drop in the bucket, one of 19,000 airports in the system. It serves almost exclusively a small number of elite passengers in charter jets and business jets, while imposing serious air pollution and noise issues on the dense residential community that surrounds the SMO runway. This airport should have been closed decades ago.

While the FAA could conceivably further impose itself in the standoff, Cole is doubtful it will considering that, despite existing legal disputes, “the FAA has upheld our authority to regulate operations at the airport.”

Meanwhile, SMO flight traffic opponents Airport2Park Foundation has thrown its support behind a Feb. 4 protest organized by Concerned Residents Against Airport Pollution. Scheduled speakers include Congressman Ted Lieu, who in a recent open letter suggested the **FAA is acting as a “shill for corporations,”** Santa Monica Mayor Ted Winterer and Los Angeles City Councilmember Mike Bonin.

And customers who have already purchased tickets?

“Our customers’ funds are safe,” Wilcox said, describing their money as “in escrow” and assuring a refund or compensatory services if needed.

A Populist Approach

Looking ahead, Wilcox said his is “very much a long-term vision” for operating at SMO, and he believes “only federal action can close the airport.”

He argues that the democratization of charter jet travel⁶ will turn the tide in public opinion about SMO.

“The way I see it, this kind of service is exactly the kind of thing that will increase the popularity of the airport among the city of Santa Monica. A few people nearby don’t like noise. A few more are developers who desperately want to develop all the land it is sitting on. And then the vast majority of Santa Monica is not aware the airport exists ... by definition they’re excluded,” Wilcox said.

“Jet Suite will actually be providing service the average citizen can afford,” he continued. “They can get to Carlsbad or Las Vegas or San Jose without having to schlep to LAX. And that would cut their commute time in half, by the way.”

Santa Monica is a uniquely active community and opposition is strong. But in the post-9/11 era of draconian, charmless, overpriced commercial travel so is the allure of a \$99 private jet ticket to Vegas with free bag check and snacks.⁷

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(Highlights, footnotes and minor edits may have been added, but only to add analysis & clarification)**

⁶ **aiR footnote:** How about the democratization of local airports, for an even better idea? Let local officials, residents, and businesses (all of them, not just the aviation businesses), the actual PEOPLE who are impacted by noise and air pollution, have a meaningful say in how their airport should function. This is a far better idea than letting control be held by faceless bureaucrats in DC, who are beholden to aviation interests.

⁷ **aiR footnote:** This closing statement does not conform with the reality of airfares on commercial carriers from the LA Basin to Las Vegas. I researched one airline – Southwest – and found, flying at least two weeks from now, I could choose from multiple nonstop flights each day, from Burbank, LAX, or Ontario, with fares as low as \$52 each way, and fares around \$69 widely available. And, Southwest lets you check two bags free.