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

Office of Airport Compliance
and Management Analysis

800 Independence Ave., SW.
Washington, DC 20591

VIA FEDERAL EXPRESS

May 17, 2019

Keely M. Bosler, Director
Department of Finance
State of California
915 L Street
Sacramento, CA 95814

Dear Ms. Bosler:

Re: State of California's Action Plan in Response to Federal Aviation Administration (FAA) Aviation Fuel Tax Policy

The Federal Aviation Administration's "Policy and Procedures Concerning the Use of Airport Revenue; Proceeds from Taxes on Aviation Fuel" (79 Federal Register 66282) requires state and local taxes on aviation fuel (except taxes in effect on December 30, 1987) to be considered airport revenue. Airport revenues can only be expended for the capital or operating costs of the airport; the local airport system; or other local facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property. State taxes on aviation fuel can also be used to support state aviation programs.

To help state and local governments come into compliance with this requirement by December 8, 2017, the FAA requested they submit action plans detailing what they would do to ensure any funds collected from aviation fuel taxes would be used for airport purposes.

The plan submitted by the former State of California Finance Director was nonresponsive. The State's proposal of offsetting expenditure methodology *i.e.*, the expenditure level does not directly benefit the Airport, transportation of air passengers and cargo. The proposed offsets do not provide direct benefit to the airport, and are not proper airport capital or operating costs. The local taxing jurisdictions are being forced to estimate aviation fuel taxes levied and collected to comply with the law due to the non-compliance by the State.

We request that you submit a breakdown to FAA of aviation fuel tax receipts collected by each local jurisdiction and airport sponsors in the state for the periods 2017and 2018, and also share this information with these entities. Any offsets to aviation fuel tax receipts collected must be reported and performed in accordance with federal revenue use requirements.

Five years is more than enough time to come into compliance with Federal law. Therefore, please provide within 30 days of receipt of this letter the abovementioned information to comply with the revenue use requirements under 49 U.S.C. § 47133. Failure to comply with the law could lead to withholding of federal financial assistance to federally obligated airports in the state. The State as a recipient of federal financial assistance is also obligated for the Grant Assurances and the use of airport fuel tax receipts (79 Federal Register 18755, April 3, 2014). In addition, continued non-compliance may result in civil penalties assessed for revenue diversion under 49 U.S.C. § 47107 or the filing of an application to a U.S. District Court for a compliance order.

Your immediate attention is requested; contact me at (202) 267-3085 if you have any questions. Please contact Elizabeth Newman at (202)267-7713 if you have legal questions.

Sincerely,

Kevin C. Willis

Kevin C. Willis
Director, Office of Airport Compliance
and Management Analysis

cc: Mark McClardy, AWP Regional Director