

DRAFT

Agenda Item

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AGENDA STAFF REPORT

ASR Control 20-000871

MEETING DATE: 11/03/20
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): 2
SUBMITTING AGENCY/DEPARTMENT: John Wayne Airport (Approved)
DEPARTMENT CONTACT PERSON(S): Barry A. Rondinella (949) 252-5183
Eric Freed (949) 252-5043

SUBJECT: John Wayne Airport Capacity Allocations for 2021 Plan Year

CEO CONCUR Concur	COUNTY COUNSEL REVIEW No Legal Objection	CLERK OF THE BOARD Consent Calendar 3 Votes Board Majority
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Budgeted: N/A **Current Year Cost:** N/A **Annual Cost:** N/A

Staffing Impact: No **# of Positions:** **Sole Source:** N/A

Current Fiscal Year Revenue: N/A

Funding Source: N/A **County Audit in last 3 years:** No

Prior Board Action: 09/10/2019 #4, 09/11/2018 #7

RECOMMENDED ACTION(S):

1. Find that Final Environmental Impact Report No. 617, previously certified by the Board of Supervisors on September 30, 2014, reflects the independent judgment of the County of Orange and satisfies the requirements of the California Environmental Quality Act for the John Wayne Airport Capacity Allocations for the 2021 Plan Year, which is a necessarily included element contemplated as part of the whole of the action.
 - a. The circumstances of the project are substantially the same as described in Environmental Impact Report No. 617, which adequately addressed the effects of the proposed project. No substantial changes have been made in the project, no substantial changes have occurred with respect to the circumstances under which the project is being undertaken and no new information of substantial importance to the project which was not known or could not have been known when the previous Environmental Impact Report No. 617 was certified, has become known and no further environmental review is required.
 - b. Environmental Impact Report No. 617 is adequate to satisfy the requirements of California Environmental Quality Act for the John Wayne Airport Capacity Allocations for Plan Year 2021.
 - c. All mitigation measures are fully enforceable pursuant to California Environmental Quality Act (Public Resources Code) Section 21081.6(b) and have either been adopted as conditions, incorporated as part of the project design or included in the procedures of project

implementation.

2. Authorize John Wayne Airport to maintain, or “grandfather,” and reallocate the “original” Regulated Class A and Class E Average Daily Departure allocations to the Commercial Air Carriers at John Wayne Airport, effective January 1, 2021, through December 31, 2025, as reflected in Attachment A, and in a manner consistent with the terms of the Phase 2 Commercial Airline Access Plan and Regulation, contingent upon the Air Carriers entering into a new airline lease with the County, in a form, and for a term, acceptable to the Airport Director and approved by official action of the Board of Supervisors.
3. Authorize John Wayne Airport to allocate Regulated Class A Average Daily Departures and Seat Capacity, including new Regulated Class A Average Daily Departures to incumbent and new entrant Commercial Air Carriers at John Wayne Airport, effective January 1, 2021, through December 31, 2025, as reflected in Attachment A, and in a manner consistent with the terms of the Phase 2 Commercial Airline Access Plan and Regulation, contingent upon the Air Carriers entering into a new airline lease with the County, in a form, and for a term, acceptable to the Airport Director and approved by official action of the Board of Supervisors.
4. Authorize the Airport Director to allocate Supplemental Class A Average Daily Departures and Seat Capacity to Qualified Commercial Passenger Carriers for the 2021 Plan Year (January 1, 2021, through December 31, 2021), as reflected in Attachment A, and in a manner consistent with the terms of the Phase 2 Commercial Airline Access Plan and Regulation.
5. Authorize the Airport Director to withdraw Seat Capacity during the 2021 Plan Year if it becomes necessary to ensure compliance with the 11.8 million annual passenger limitation at John Wayne Airport.
6. Authorize the Airport Director to allocate any additional Regular or Supplemental Departures, which may become available during the 2021 Plan Year and any additional supplemental Seat Capacity if he determines that such allocations can be made without jeopardy to the 11.8 million annual passenger limitation of the Phase 2 Commercial Airline Access Plan and Regulation.
7. Authorize the Airport Director to allocate up to 30 Remain Overnight positions for Air Carrier use during the 2021 Plan Year, as reflected in Attachment A. The three Remain Overnight allocations above the 27 Remain Overnight positions provided for by the Phase 2 Access Plan and Regulation will be the first Remain Overnight capacity to be withdrawn if Remain Overnight withdrawals are required during the 2021 Plan Year.
8. Authorize the Airport Director to allocate Passenger Capacity and Remain Overnight positions to the Qualified Commuter Carriers, as reflected in Attachment B.
9. Authorize the Airport Director to allocate additional supplemental Passenger Capacity to Qualified Commuter Carriers during the 2021 Plan Year if he determines that such allocations can be made without jeopardy to the 11.8 million annual passenger limitation.

SUMMARY:

Approval of the allocation of Regulated Class A and Class E Average Daily Departures, Seat Capacity, Remain Overnight Capacity and Passenger Capacity to scheduled Commercial Passenger Carriers, Commercial Cargo Carriers and Commuter Passenger Carriers will provide John Wayne Airport with the

necessary authority to ensure compliance with the County's Phase 2 Commercial Airline Access Plan and Regulation for the 2021 Plan Year (January 1, 2021, through December 31, 2021).

BACKGROUND INFORMATION:

The purpose of this Agenda Staff Report (ASR) is to present the recommendations of John Wayne Airport (JWA) with respect to the allocation of Regulated Average Daily Departures (ADD), Seat Capacity, Remain Overnight (RON) Capacity and Passenger Capacity to scheduled Commercial Passenger Carriers, Commercial Cargo Carriers and Commuter Passenger Carriers under the County's Phase 2 Commercial Airline Access Plan and Regulation (Access Plan) for the Plan Year that begins on January 1, 2021, and ends on December 31, 2021 (2021 Plan Year). The Board of Supervisors (Board) last approved capacity allocations for the 2020 and 2019 Plan Years on September 10, 2019, and September 11, 2018, respectively.

Based on the capacity requests submitted by each interested incumbent and new entrant Air Carrier, JWA's recommended allocations achieve the following objectives: (1) accommodate three new entrant Air Carriers (Allegiant Air, Sun Country Airlines and Air Canada) at JWA; (2) provide three ADDs for new non-stop international destinations (two ADDs to Southwest and one ADD to Air Canada, a new entrant Air Carrier); (3) accommodate, to the extent possible, the ADD, Seat Capacity, RON and Passenger Capacity requests received from the incumbent Air Carriers and Commuter Carriers; (4) provide internal County controls to ensure compliance with the JWA 11.8 million annual passenger (MAP) limitation; (5) provide internal County controls to ensure compliance with the annual cap on numbers of Regulated Departures; and (6) meet all other legal and regulatory obligations.

Attachment A identifies the specific ADD, Seat Capacity and RON allocations for Qualified Air Carriers recommended by JWA. The recommended Passenger Capacity and RON allocations to Qualified Commuter Carriers are set forth in Attachment B.

Allocation of Original Capacity

Original ADDs consist of those 85 ADDs allocated (or grandfathered) to the Commercial Air Carriers, effective January 1, 2016, through December 31, 2020. The Airport Director is requesting that those original ADDs be maintained or grandfathered, contingent upon the Air Carriers entering into a new airline lease with the County, in a form, and for a term, acceptable to the Airport Director and approved by the Board.

Reallocation of the original ADDs will result in the Commercial Air Carriers maintaining their existing allocation of original Class A ADDs for a term through December 31, 2025 (the term of the new lease agreements with the County). The proposed allocation complies with the provisions of the Access Plan and is similar to the grandfathering allocation that occurred with the allocation process for the 2015 Plan Year, where the original ADDs were grandfathered for the period from January 1, 2016, through December 31, 2020.

The specific allocation scenario for the reallocation of the original capacity that will expire on December 31, 2020, is an issue on which JWA staff has solicited Air Carrier input. The County also requested comments on the issue of how the County should allocate the new capacity of 10 Class A ADDs, effective January 1, 2021. JWA's recommended reallocation, or grandfathering, of ADDs that will expire on December 31, 2020, as well as the allocation of new capacity to both incumbents and new entrants received strong support from the Air Carriers that provided input to the County. Further, they reflect the County's continued focus on providing maximum service to the traveling public while ensuring the

fairness of the capacity reallocation process of the Access Plan as part of the implementation of commercial operations at JWA.

Associated Operating Group and Affiliate Policy Provisions

On October 4, 1994, the Board approved a series of amendments to the Affiliate policy provisions of the Access Plan relating to the formation of, allocation of capacity to, and operation of Associated Operating Groups (AOG). Alaska Air Group and Horizon Air will continue to operate as members of an AOG during the 2021 Plan Year.

Allocation of Class A ADDs Currently Under County Control

The County has within its control approximately 15 Class A ADDs. Ten of these Class A ADDs are new Regulated Class A ADDs that are a result of the determination of the Board on September 30, 2014, certifying EIR 617, and approving modifications to the Settlement Amendment in the case of *County of Orange v. Air California, et al.*, which authorized an increase in the number of Class A ADDs that were available for allocation from 85 to 95 beginning on January 1, 2021, through December 31, 2030.

The Airport Director is requesting authorization to allocate nine of the current County-controlled Class A ADDs on a permanent basis (through December 31, 2025), and the remaining six County-controlled Class A ADDs (five County-controlled ADDs and one Class A ADD temporarily returned for County allocation) on a supplemental Plan Year basis, as set forth in Attachment A to this ASR and consistent with the new entrant waiting list and incumbent reallocation priority list. At the end of the 2021 Plan Year, six of these Class A ADDs will return to direct County control for possible reallocation to new entrant Air Carrier(s) or to incumbent Air Carrier(s), effective January 1, 2022.

The Airport Director is requesting authorization to allocate four of the new County-controlled Class A ADDs to new entrant Air Carriers: three Class A ADDs to Allegiant Air, and one Class A ADD to Sun Country Airlines, for the period from January 1, 2021, through December 31, 2025, contingent upon the Air Carriers entering into a new airline lease with the County.

The Airport Director is also requesting authorization to allocate two of the new County-controlled Class A ADDs to incumbent Air Carriers: one each to WestJet and Frontier, effective January 1, 2021, through December 31, 2025, contingent upon the Air Carriers entering into a new airline lease with the County.

Section 3.1.4 of the Access Plan requires the Airport Director to reserve three Regular Class A ADDs of the total Regular ADD capacity for priority distribution to Qualified Commercial Carriers providing non-stop service to international destinations. Consistent with this requirement, the Airport Director is requesting authorization to allocate three of the County-controlled Class A ADDs to Air Carriers that will provide non-stop service to international destinations: two of the new Class A ADDs to Southwest Airlines and one Class A ADD to a new entrant Air Carrier, Air Canada. The six Supplemental Class A ADDs will be allocated to Spirit Airlines (two Class A ADDs), Delta Air Lines (two Class A ADDs), United Airlines (one Class A ADD), and Southwest Airlines (one Class A ADD) for a period from January 1, 2021, through December 31, 2021. The Airport Director's requested authorizations to allocate County-controlled capacity, as discussed above, are reflected in Attachment A to this ASR.

Allocation of Class A Departures for All-Cargo Operations

During the 2003 allocation process of the new capacity provided by the Settlement Amendment, the County provided JWA with four all-cargo Class A ADDs for operations at JWA by Commercial Cargo

Carriers. In addition, the County provided JWA with the discretion to allocate up to two all-cargo Class A ADDs to Passenger Carriers when not needed for all-cargo operations at JWA. This capacity, however, may only be allocated on a supplemental basis for one Plan Year in any year where those ADDs have not been requested by Commercial Cargo Carriers.

Consistent with the requests from FedEx and UPS, the Airport Director is requesting the authority to allocate approximately one all-cargo Class A ADD each to FedEx and UPS, effective January 1, 2021, through December 31, 2021. The Airport Director is requesting authorization to allocate the two additional all-cargo Class A ADDs currently available to United Airlines and Southwest Airlines on a supplemental one-year basis, as reflected in Attachment A. However, these supplemental all-cargo Class A ADDs would be subject to withdrawal, if necessary, to maintain the MAP limitation required at JWA.

Presumed Seat Capacity and Class E Seat Capacity Allocations

A total of 15,540,176 seats were requested by the Air Carriers and the Airport Director is requesting authorization to allocation 15,540,176 seats for the 2021 Plan Year. A portion of this Seat Capacity, 12,741,474 seats, is allocated in connection with the operation of Class A ADDs and permanent Class E ADDs by the Air Carriers. The remainder of the Seat Capacity, 2,798,702 seats, is allocated via the section of the Access Plan that creates Class E operations capacity for Air Carriers. The specific Seat Capacity allocation recommendations by Air Carriers are reflected in Attachment A to this ASR.

Air Carrier RON Allocations

A total of 31 RON positions were requested for allocation for the 2021 Plan Year. Although the Access Plan provides for an allocation of only 27 Air Carrier RONs, the Airport Director is requesting authority from the Board to again waive the Section 5.1.1 RON limit for the 2021 Plan Year and that the Board provide the Airport Director with the authorization to allocate up to a maximum of 30 RONs for use during the 2021 Plan Year in accordance with the Section 5.3 allocation provisions of the Access Plan. The recommended RON allocations (loading bridge and apron) for Air Carriers meet all but one of the RON requests for the 2021 Plan Year and are reflected in the last two columns of Attachment A. Delta Air Lines requested one additional RON position for the 2021 Plan Year. Delta Air Lines is first on the RON waiting list for a RON apron position that becomes available during the 2021 Plan Year. Spirit Airlines requested one additional RON loading bridge position for the 2021 Plan Year. Spirit Airlines is first on the RON waiting list for a RON loading bridge position for the 2021 Plan Year.

If the Airport Director determines at any time during the 2021 Plan Year that the allocation of 30 RON positions will jeopardize, in any manner, the safe and efficient operations at JWA or will place undue restrictions on RON activity at JWA, the Airport Director requests authorization to withdraw any RON capacity over the 27 RON positions that the Access Plan currently authorizes for allocation. Delta Air Lines, Alaska Airlines and United Airlines (one RON each) will be subject to early and first withdrawal (if necessary) under the conditions specified above.

Passenger Capacity Allocations to Commuter Carriers

SkyWest Airlines has requested an allocation of 81,610 passengers, and JSX/Delux has requested an allocation of 95,070 passengers for the 2021 Plan Year. Because the number of passengers requested is below the 400,000 passengers "prioritized" for use by Commuter Carriers, the Airport Director recommends that 81,610 passengers be allocated to SkyWest Airlines and 95,070 passengers be allocated to JSX/Delux for use during the 2021 Plan Year, for a total of 176,680 passengers. This proposed allocation of Commuter Carrier capacity is reflected in Attachment B of this ASR. Importantly, these

Commuter Air Carrier allocation recommendations are contingent upon the Commuter Carriers agreeing to provide services and engage in activities related to service of air passengers and their baggage through and in facilities designated for that purpose by the County.

JWA also requests authority to make supplemental allocations of additional Authorized Passengers during the 2021 Plan Year if additional Commuter Carrier capacity requests are received and if actual operations during the Plan Year indicate that supplemental capacity allocations would not jeopardize the 11.8 MAP limitation.

Commuter RON Allocations

JSX/Delux has requested two RON positions for the 2021 Plan Year. Consistent with this request, the Airport Director requests authority to allocate two Commuter RON positions to JSX/Delux for the 2021 Plan Year. The proposed allocation of RON capacity is reflected in Attachment B of this ASR.

Compliance with CEQA: This project is a necessarily included element of the project considered in Final Environmental Impact Report (EIR) No. 617, certified by the Board on September 30, 2014, for the JWA Settlement Agreement Amendment, which adequately addressed the effects of the project. No substantial changes have been made in the project, no substantial changes have occurred in the circumstances under which the project is being undertaken and no new information of substantial importance to the project, which was not known, or could not have been known, when the Final EIR No. 617 was certified, has become known; therefore, no further environmental review is required.

FINANCIAL IMPACT:

N/A

STAFFING IMPACT:

N/A

ATTACHMENT(S):

- Attachment A - Plan Year 2021 Commercial Carrier and All-Cargo Carrier Capacity Allocation
- Attachment B - Plan Year 2021 Commuter Carrier Capacity Allocation

ATTACHMENT A
Plan Year 2021
Commercial Air Carrier and Commercial Cargo Carrier Capacity Allocation
(Effective 1/1/21)

JOHN WAYNE AIRPORT: PLAN YEAR 2021
Commercial Air Carrier and Commercial Cargo Carrier ADD, Seat Capacity, and RON Allocations

CARRIER	CLASS A CAPACITY					CLASS PE CAPACITY	CLASS E SEAT CAPACITY		TOTAL SEAT CAPACITY	RON SPACES		
	REGULAR CLASS A ADDs	COUNTY-CONTROLLED CLASS A ADDs	INTERNATIONAL COUNTY-CONTROLLED CLASS A ADDs	SUPPLEMENTAL CLASS A ADDs	TOTAL CLASS A ADDs		REGULAR CLASS PE ADDs	CLASS E SEAT CAPACITY		APPROX CLASS E ADDs equiv.	Gate	Apron
Air Canada ¹			0.67		0.67				82,810			
Alaska / Horizon ²	15				15		887,680	16	2,446,960	4	1	
Allegiant ³		2.66			2.66				349,398			
American	18				18				2,152,752	3	2	
Delta	8			2	10		523,636	7	1,910,636	3	1	
FedEx ⁴	0.726				0.726							
Frontier	2	1			3				407,340			
Southwest	17		2	2	21	14	1,387,386	13	5,111,116	6	2	
Spirit	3			2	5				659,932	1	1	
Sun Country ⁵		1			1				88,704			
United	17			2	19				2,137,808	3	3	
UPS ⁶	0.616				0.616							
WestJet	1	1			2				192,720			
TOTALS:	82.342	5.66	2.67	8	98.672	14	2,798,702	36	15,540,176	20	10	

Notes:¹Air Canada initiating service on May 1, 2021.²Alaska affiliate SkyWest will operate Class E Seat Capacity.³Allegiant initiating service on February 11, 2021.⁴FedEx was allocated 265 departures for PY 2021. $265/365 = 0.726$ of one (1) Class A ADD.⁵Sun Country initiating service on April 8, 2021.⁶UPS was allocated 225 departures for PY 2021. $225/365 = 0.616$ of one (1) Class A ADD.

JOHN WAYNE AIRPORT: PLAN YEAR 2021
ASSOCIATED OPERATING GROUPS - Individual Carrier Operations Proposal

Alaska	12				12		388,360	7	1,781,200	3	1
Horizon	3				3		499,320	9	665,760	1	

ATTACHMENT B
Plan Year 2021
Commuter Carrier Capacity Allocation
(Effective 1/1/21)

JOHN WAYNE AIRPORT: PLAN YEAR 2021
Commuter Carrier Passenger and RON Allocations

CARRIER	2021 PASSENGER CAPACITY	2021 RONs
	PASSENGERS ALLOCATED	RON SPACES
Skywest	81,610	
Delux	95,070	2
TOTALS:	176,680	2