



AGENDA STAFF REPORT

ASR Control 21-000865

MEETING DATE: 11/02/21

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
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SUBJECT: John Wayne Airport Capacity Allocations for 2022 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: 11/03/2020 #6, 09/10/2019 #4

RECOMMENDED ACTION(S):

1. Authorize the Airport Director to allocate Class A and Class E Average Daily Departures and Seat Capacity to Qualified Commercial Passenger and Commercial Cargo Air Carriers and Passenger Capacity to Qualified Commuter Passenger Air Carriers for the 2022 Plan Year (January 1, 2022, through December 31, 2022), as reflected on Attachments A and B, and in a manner consistent with the terms of the Phase 2 Commercial Airline Access Plan and Regulation.
2. Authorize the Airport Director to withdraw Seat Capacity during the 2022 Plan Year if it becomes necessary to ensure compliance with the 11.8 million annual passenger limitation at John Wayne Airport, consistent with the requirements set forth in Section 6 of the Phase 2 Commercial Airline Access Plan and Regulation.
3. Authorize the Airport Director to allocate or reallocate any additional Regular or Supplemental Average Daily Departures and any necessary associated Seat Capacity, which may become available during the 2022 Plan Year, in a manner consistent with the terms of the Phase 2 Commercial Airline Access Plan and Regulation.
4. Authorize the Airport Director to allocate additional Supplemental Seat Capacity to Qualified Commercial Passenger Air Carriers during the 2022 Plan Year if it is determined 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.

5. Authorize the Airport Director to waive Section 5.1.1 of the Phase 2 Commercial Airline Access Plan and Regulation and allocate up to 30 Remain Overnight positions for Commercial Air Carrier use during the 2022 Plan Year, pursuant to Section 5.1.1, as reflected on Attachment A, and provide authority to withdraw the additional three Remain Overnight positions for safety or operational purposes, as required.
6. Authorize the Airport Director to allocate Passenger Capacity and Remain Overnight positions and authorize the Airport Director to allocate any additional Supplemental Passenger Capacity and Remain Overnight positions to Qualified Commuter Carriers during the 2022 Plan Year if it is determined that such allocations can be made without jeopardy to the 11.8 million annual passenger limitation.
7. Find that the County retains and reaffirms its sole and exclusive discretion to require mandatory withdrawals of operational capacity in any form if the County determines such action to be appropriate to ensure continued compliance with the 11.8 million annual passenger limitation or for any other reason, consistent with the requirements set forth in Section 6 of the Phase 2 Commercial Airline Access Plan and Regulation.

SUMMARY:

Approval of the proposed allocation of Regulated Average Daily Departures, Seat Capacity, Remain Overnight Capacity and Passenger Capacity to scheduled Commercial Passenger Air Carriers, Commercial Cargo Carriers and Commuter Passenger Air 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 2022 Plan Year.

BACKGROUND INFORMATION:

County regulation of a maximum permissible number of Average Daily Departures (ADDs) is one of two principal restraints imposed on John Wayne Airport (JWA) operations by the County to control aircraft noise in residential areas around JWA. Limitation on the maximum permissible number of ADDs has been an element of the County's regulation of JWA since 1972.

There are presently two defined classes of ADDs in the Phase 2 Commercial Airline Access Plan and Regulation (Phase 2 Access Plan), Class A and Class E. The class of aircraft permitted the highest relative single event noise level is Class A. The County allocates up to 95 Class A ADDs (January 1, 2021 through December 31, 2025). The quietest class of aircraft is Class E. The County allocates up to 14 permanent Class E ADDs; however, the absolute number of maximum permissible Class E Authorized Departures is not directly regulated by the County. Instead, the maximum permissible number of Class E Authorized Departures is limited by the current million annual passengers (MAP) limitation of 11.8 MAP under the 1985 Settlement Agreement, as amended.

The Phase 2 Access Plan identifies both Regular and Supplemental capacity allocations. The principal difference is that Regular ADDs are those that are allocated on a long-term basis, while Supplemental ADDs are allocated on a short-term basis, usually for one Plan Year. The Regular ADDs form the

foundation for commercial operations at JWA, while the Supplemental ADDs are allocated each Plan Year to maximize operational capacity while maintaining sufficient flexibility to ensure that total passenger service level remains within the MAP limitation.

The Board of Supervisors (Board) previously approved capacity allocations on November 3, 2020, and September 10, 2019. In connection with the annual process for allocating operating capacity for the 2022 Plan Year, and consistent with past Plan Year allocations, JWA requested that each interested incumbent and new entrant Air Carrier and Commuter Carrier submit its capacity requests for the 2022 Plan Year. JWA staff has carefully reviewed those requests and all related information. This report contains JWA's specific allocation recommendations for the 2022 Plan Year and a discussion of the basis for those recommendations.

The recommendations provided in this report achieve several objectives: (1) accommodate, to the extent possible, the ADD, Seat Capacity, Remain Overnight (RON) and Passenger Capacity requests received from the incumbent Air Carriers and Commuter Carriers; (2) provide internal County controls in order to ensure compliance with the 11.8 MAP limitation and the annual cap on numbers of Regulated ADDs; and (3) 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 for the 2022 Plan Year. The recommended Passenger Capacity and RON allocations to Qualified Commuter Carriers for the 2022 Plan Year are set forth in Attachment B.

New Entrant Allocations

The Phase 2 Access Plan provides that potential new entrant Air Carriers and Commuter Carriers have priority on the Air Carrier and Commuter Carrier waiting list based upon the dates when the County first received their written requests of interest to commence service at JWA. Although JWA has, both in recent Plan Years and historically, been able to provide new entrant opportunities for Air Carriers and Commuter Carriers on the waiting list, JWA is not recommending a capacity allocation to a new entrant Air Carrier or Commuter Carrier for the 2022 Plan Year. This is due to the allocation requests of the incumbent Air Carriers and Commuter Carriers for the 2022 Plan Year, the available capacity for new entrant Air Carriers, the status of the new entrant Air Carrier waitlist and the fact that JWA has allocated capacity to one new entrant Air Carrier (Spirit Airlines) in the 2020 Plan Year and three new entrant Air Carriers (Allegiant Air, Sun Country Airlines and Air Canada) in the 2021 Plan Year.

Associated Operating Group Provisions

The Phase 2 Access Plan allows Air Carriers and Commuter Carriers operating at JWA to declare annually the formation of an Associated Operating Group (AOG) for purposes of conducting operations at JWA. AOGs are required to be formed between Affiliate Air Carriers. AOGs are also formed by Air Carriers and Commuter Carriers interested in sharing capacity among AOG members. Alaska/Horizon and Delta/WestJet have requested to operate as members of two separate AOGs during the 2022 Plan Year.

The Phase 2 Access Plan includes a number of regulations, which apply to the allocation of capacity to and operation of AOGs. These provisions require that Air Carriers and Commuter Carriers conducting operations as an AOG be treated as a single carrier with respect to the allocation of capacity. The historical purpose for these provisions is to ensure against a group of Affiliated Carriers gaining an advantage over competitors solely because of the way in which they have chosen to organize themselves for business purposes.

The recommended allocation of capacity to Alaska/Horizon and Delta/WestJet reflects AOG provisions of the Phase 2 Access Plan. The AOG allocations are set forth in Attachment A.

Allocation of Permanent Class E ADDs

The Phase 2 Access Plan allows an allocation of a total of 14 permanent Class E ADDs by means of a trade-out voluntarily undertaken by the Air Carriers. Specifically, one Class A ADD can be traded for two new permanent Class E ADDs. Southwest Airlines currently operates all 14 of these permanent Class E ADDs through December 31, 2025, as set forth in Attachment A.

Allocation of Class A ADDs Currently Under Direct County Control

As a result of Air Carrier operational decisions and changes in the airline industry that have occurred over the past few years, the County currently has five Class A ADDs within its control. In recent Plan Years, JWA has requested authorization to allocate County-controlled Class A ADD capacity on a permanent or supplemental basis. Because of the amount of Seat Capacity requested for use during the 2022 Plan Year, including the maximum presumptive seat capacity that has been requested and recommended for allocation during the 2022 Plan Year, and in order to maintain JWA's MAP limitation, JWA is not able to allocate any additional County-controlled Class A ADDs to the Commercial Passenger Air Carriers on a regular permanent basis for use during the 2022 Plan Year. Therefore, the five County-controlled Class A ADDs have been allocated as supplemental capacity for the period from January 1, 2022, through December 31, 2022, at which time the capacity will return to the County for possible future allocation. The recommended allocation of Supplemental Class A ADD capacity is set forth in Attachment A. The Delta/WestJet AOG, United Airlines and Southwest Airlines were each allocated one Supplemental Class A ADD, and Spirit Airlines was allocated two Supplemental Class A ADDs.

Allocation of Class A Departures for Commercial Cargo Operations

The Phase 2 Access Plan provides the County with the ability to allocate up to four Commercial Cargo Class A ADDs and the discretion to allocate up to two of these four Commercial Cargo Class A ADDs to passenger carriers when not needed for 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.

Neither FedEx nor UPS has requested any additional operating capacity beyond the two Cargo Class A ADDs (one each) that have been allocated to them through December 31, 2022. Therefore, JWA is requesting authorization to allocate the two additional Cargo Class A ADDs currently available to the next two Commercial Passenger Air Carriers on the reallocation priority list, which are United Airlines and Southwest Airlines. United Airlines and Southwest Airlines are recommended to receive one Cargo Class A ADD each on a supplemental one-year basis during the 2022 Plan Year, as reflected in Attachment A.

Seat Capacity Allocations

A total of 15,537,468 seats were requested by the Air Carriers as part of the 2022 Plan Year allocation process. JWA is requesting authorization to allocate a total of 15,537,468 seats for the 2022 Plan Year. Historically, the number of seats allocated exceeds the 11.8 MAP limitation because Air Carrier load factors (seats filled vs. seats available) is less than 100 percent. Of the 15,537,468 seats recommended for allocation, JWA projects a 73.7 percent load factor by Air Carriers during the 2022 Plan Year.

A total of 12,727,544 seats are recommended for allocation in support of Class A operations. A total of 2,809,924 seats are recommended for allocation in support of Class E operations. The recommended Seat Capacity allocation would accommodate all of the seats requested for use during the 2022 Plan Year. The specific Seat Capacity allocation recommendations for the Air Carriers are reflected in Attachment A.

Section 6 of the Phase 2 Access Plan outline provisions which permit the County to withdraw operational capacity at such times, on such conditions, and for such reasons as the County, in its sole and exclusive discretion, determines are appropriate to ensure that the MAP limitation is not exceeded during any Plan Year, or for any other reason. Whenever the Airport Director determines that there is a substantial risk that Regularly Scheduled Commercial Users operating at JWA will exceed the MAP limitation during any Plan Year for any reason other than the violation of the Phase 2 Access Plan by any specific Air Carrier or Commuter Carrier, the Airport Director will advise all Air Carriers and Commuter Carriers of recommendations for capacity withdrawals. In formulating and presenting recommendations for capacity withdrawals, the Airport Director will formulate recommendations that to the extent practical and feasible: (i) maintain an appropriate level of equity and fairness among all approved users of JWA; (ii) will best serve the interests of the air traveling public using JWA; and (iii) are consistent with the policies and objectives of the County in its management and operation of JWA.

Although there is no capacity withdrawal priority among the operational categories set forth below, and as further described in Section 6 of the Phase 2 Access Plan, in many circumstances, JWA will generally prefer and recommend capacity withdrawals, to the extent necessary and required, in the following order: (i) Seat Blocks; (ii) Supplemental Authorized Departures; (iii) Supplemental Passenger Capacity; (iv) Regulated ADDs; and then (v) Passenger Capacity. However, if capacity withdrawals are required by the County, any withdrawal recommendations will be structured in a manner that best serves the interests of the County, local communities and the air traveling public; and the withdrawal will be structured in light of then-existing circumstances, facts and commercial operation patterns at JWA.

Air Carrier RON Allocations

The allocation of RON parking positions to the Air Carriers and Commuter Carriers has long been a commercially and operationally significant issue to the carriers. The limited physical facilities available at JWA for overnight parking of Air Carrier and Commuter Carrier aircraft requires that the County, in the interests of safe and efficient operations at JWA, and in support of the appropriate mix of uses of JWA, limit the number of Air Carrier and Commuter Carrier RON positions, control the location and use of Air Carrier and Commuter Carrier RON positions and place certain other restrictions on RON activity at JWA.

A total of 30 RON positions were requested for allocation for the 2022 Plan Year. Although the Phase 2 Access Plan provides for an allocation of only 27 Air Carrier RONs, JWA is requesting authority from the Board to waive the Section 5.1.1 RON limit for the 2022 Plan Year and is requesting that the Board authorize JWA to allocate up to 30 RONs for use during the 2022 Plan Year in accordance with Section 5.3 of the Phase 2 Access Plan and consistent with past Plan Year allocation requests. The recommended RON allocations (gate and apron) for Air Carriers fulfill all 30 of the gate and apron RON position requests for the 2022 Plan Year and are reflected in the last two columns of Attachment A.

If JWA determines at any time during the 2022 Plan Year that the allocation of up to 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, JWA requests authorization to withdraw any RON capacity over the 27 RON positions that the Phase 2 Access Plan currently authorizes for allocation.

Passenger Capacity Allocations to Commuter Carriers

Two Qualified Commuter Carriers, SkyWest Airlines (Alaska Airlines and United Express) and Delux Public Charters, LLC (JSX), have requested Passenger Capacity allocations for the 2022 Plan Year. SkyWest has requested an allocation of 41,495 passengers. JSX has requested an allocation of 200,000 passengers.

Section 3.5.1 of the Phase 2 Access Plan creates a priority for the allocation of 400,000 Authorized Passengers to Commuter Carriers in each Plan Year. JWA recommends that 41,495 passengers be allocated to SkyWest for use during the 2022 Plan Year and 200,000 passengers be *conditionally* allocated to JSX for use during the 2022 Plan Year. Please see the discussion below relating to the allocation conditions of 200,000 passengers to JSX for the 2022 Plan Year. Therefore, JWA recommends that a total of 241,495 passengers (200,000 conditionally) be allocated for Commuter Carrier use during the 2022 Plan Year. This proposed allocation of Commuter Carrier capacity is reflected in Attachment B.

JSX Allocation Conditions

Since initiation of service, JSX has requested that it be permitted to operate at ACI Jet's Fixed-Based Operator (FBO) leasehold, an operational plan that was previously granted in lieu of operating out of the JWA Thomas F. Riley (Terminal). Pursuant to Section 8.1.7(b) of the Phase 2 Access Plan, JSX was conditionally permitted to operate at ACI Jet's FBO leasehold during the 2018 Plan Year subject to completion of the necessary environmental review and analysis relating to parking and traffic impacts of its operations, and implementation of any necessary related mitigation. Under Section 8.1.7(b) of the Phase 2 Access Plan, discretion is provided to the Airport Director to permit a Qualified Commuter Air Carrier to conduct passenger operations at the location of an FBO. JSX conducted operations out of ACI Jet's FBO leasehold for the 2018, 2019, 2020 and 2021 Plan Years.

JSX has again requested to operate at ACI Jet's FBO leasehold during the 2022 Plan Year. Consistent with operations by JSX during the past four Plan Years, JWA again recommends that JSX be permitted to operate at ACI Jet's FBO leasehold to the extent approved by ACI Jet and to the extent its operations fall within the 95,070 passenger levels, which is the environmental envelope/clearance provided by previous environmental review and analysis related to parking and traffic impacts of Commuter Carrier operations at FBOs. To the extent that JSX wishes to provide operations over its current allocation of 95,070 passengers during the 2022 Plan Year, JSX must move all of its operations to the Terminal. Essentially then, JSX can either operate 95,070 passengers at ACI Jet's FBO leasehold during the 2022 Plan Year or move its operations entirely to the Terminal and provide operations for up to 200,000 passengers out of that facility, similar to the manner in which SkyWest is operating at the Terminal.

JWA also requests authority to make supplemental allocations of additional Authorized Passengers during the 2022 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. A total of 241,495 passengers are recommended for allocation to Commuter Air Carriers factoring in a 98.9 percent projected utilization during the 2022 Plan Year.

RON Allocations to Commuter Carriers

In addition to its Passenger Capacity request, JSX has requested an allocation of two RON positions for the 2022 Plan Year. Consistent with this request, JWA requests authority to allocate two RON apron positions to JSX for the 2022 Plan Year.

Based on the above, JWA seeks Board approval of the proposed capacity allocations for the 2022 Plan Year.

Compliance with CEQA: The proposed action 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 proposed action. 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 2022 Commercial Carrier and Commercial Cargo Carrier Capacity Allocation
Attachment B - Plan Year 2022 Commuter Carrier Capacity Allocation

DRAFT
ATTACHMENT A
Plan Year 2022

Commercial Air Carrier and Commercial Cargo Carrier Capacity Allocation
(Effective 1/1/22)

JOHN WAYNE AIRPORT: PLAN YEAR 2022
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	SUPPLEMENTAL CLASS A ADDs	TOTAL CLASS A ADDs		REGULAR CLASS PE ADDs	CLASS E SEAT CAPACITY		APPROX CLASS E ADDs equiv.	Gate	Apron
			COUNTY-CONTROLLED CLASS A ADDs									
Air Canada			1		1				123,370			
Alaska / Horizon ¹	15				15		221,920	4	1,781,200	5		
Allegiant	3				3				363,540			
American	18				18				2,260,080	3	3	
Delta/WestJet	10			1	11		181,376	2	1,622,396	3	1	
FedEx ²	0.726				0.726							
Frontier	3				3				407,340			
Southwest	17		2	2	21	14	2,296,580	22	6,020,310	6	2	
Spirit	3			2	5				664,300	1		
Sun Country	1				1				57,408			
United ³	17			2	19		110,048	2	2,237,524	2	4	
UPS ⁴	0.616				0.616							
TOTALS:	88.342	0	3	7	98.342	14	2,809,924	30	15,537,468	20	10	

Notes:

- ¹Alaska affiliate SkyWest will operate Class E Seat Capacity and one (1) Gate position.
- ²FedEx was allocated 265 departures for PY 2022. $265/365 = 0.726$ of one (1) Class A ADD.
- ³United affiliate SkyWest will operate Class E Seat Capacity.
- ⁴UPS was allocated 225 departures for PY 2022. $225/365 = 0.616$ of one (1) Class A ADD.

JOHN WAYNE AIRPORT: PLAN YEAR 2022
ASSOCIATED OPERATING GROUPS - Individual Carrier Operations Proposal

Alaska ¹	12				12		110,960	2	1,503,800	4	
Horizon	3				3		110,960	2	277,400	1	
Delta	8			1	9		181,376	2	1,429,676	3	1
WestJet	2				2				192,720		

Plan Year 2022 Commuter Carrier Capacity Allocation (Effective 1/1/22)

<p>JOHN WAYNE AIRPORT: PLAN YEAR 2022 Commuter Carrier Passenger and RON Allocations</p>

CARRIER	2022 PASSENGER CAPACITY	2022 RONs
	PASSENGERS ALLOCATED	RON SPACES
Skywest	41,495	
Delux	200,000	2
TOTALS:	241,495	2