

## **2.0 INTRODUCTION, PROJECT HISTORY, AND SETTING**

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### **2.1 PURPOSE OF THIS ENVIRONMENTAL IMPACT REPORT**

The California Environmental Quality Act (“CEQA”) (*California Public Resources Code* [“PRC”] §21002.1) states that the purpose of an environmental impact report (“EIR”) is to identify the significant effects of a project on the environment, and to indicate the manner in which those significant impacts can be mitigated or avoided. A detailed description of the proposed John Wayne Airport (“JWA” or “the Airport”) Settlement Agreement Amendment (“Project”) is provided in Section 3.0, Project Description, of this Draft EIR.

The Project requires approval of certain discretionary actions by the County of Orange (“County”). Therefore, in accordance with PRC Section 21080, the Project is subject to environmental review under CEQA. For purposes of complying with CEQA, the County of Orange is the Lead Agency for the Project.

In accordance with Section 15121(a) of the State CEQA Guidelines, this EIR is an informational document that will inform public agency decision makers and the general public of (1) the significant environmental effects of the Project; (2) possible ways to minimize the significant effects; and (3) reasonable alternatives to the Project. Thus, the EIR is an important document that is ultimately used by decision makers when considering whether or not to approve, deny, or modify the Project.

This EIR has been prepared in accordance with CEQA (PRC §21000 et seq.) and the State CEQA Guidelines (Title 14, *California Code of Regulations* [“CCR”] Section 15000 et seq.). Section 15151 of the State CEQA Guidelines defines the standards of adequacy for an EIR:

An EIR should be prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure.

This Draft EIR is intended to serve as a Project EIR under CEQA. Section 15161 of the State CEQA Guidelines states that a Project EIR should focus primarily on changes in the environment that would result from development of a project. A Project EIR must examine all phases of a project, including planning, construction, and operation. This Project EIR is intended to provide the environmental information necessary for the County to make a final decision on the requested entitlements for this Project. This EIR is also intended to support discretionary reviews and decisions by other agencies.

## **2.2 ENVIRONMENTAL REVIEW PROCESS**

In accordance with Section 15063(a) of the State CEQA Guidelines, the County prepared an Initial Study for the Project and determined that the Project may have a significant effect on the environment; as such, an EIR is required for the Project.

In compliance with Section 15082 of the State CEQA Guidelines, the County oversaw preparation of the Notice of Preparation ("NOP") of the Draft EIR for the Project, which was distributed on October 1, 2013, to the State Clearinghouse and other public agencies for the required 30-day review and comment period. Additionally, a Scoping Meeting was held on October 17, 2013, at the JWA Airport Commission Meeting Room to facilitate agency and public review and comment on the Project. The NOP, comments received on the NOP by the County, and Scoping Meeting transcript and comments are provided in Appendix A of this Draft EIR.

Based on the NOP and related Initial Study Environmental Checklist, as well as the comments received by the County on those documents, this Draft EIR analyzes the following environmental topics:

- Air Quality
- Biological Resources
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Land Use and Planning
- Noise
- Public Services
- Transportation/Traffic
- Utilities and Service Systems (water and wastewater services)
- Water Quality

This Draft EIR was prepared under the direction and supervision of the County of Orange/JWA, and will be circulated for a 45-day public review and comment period, as mandated by the State CEQA Guidelines (14 CCR Section 15105). During the public review period, there will be two public meetings. The first meeting will be held on May 28, 2014 at Hewes Middle School in the City of Tustin and the second meeting will be held on May 29, 2014 at the JWA Administrative Offices, in the Airport Commission hearing room. Both of these meetings will provide the public an opportunity to provide input on the EIR and to ask questions about the Project.<sup>1</sup> Any time during the public review period, written comments concerning the adequacy of the document can be submitted by interested public agencies and members of the public to:

John Wayne Airport  
Attn: Lea Choum  
3160 Airway Avenue  
Costa Mesa, California 92626  
or via email to DEIR617@ocair.com

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<sup>1</sup> Hewes Middle School is located at 13232 Hewes Avenue in Tustin. The JWA Administrative Offices are located at 3160 Airway Avenue in Costa Mesa. The meeting logistics will be provided on the John Wayne Airport website, [www.ocair.com](http://www.ocair.com).

After the public review comment period, written responses to all written comments and oral testimony pertaining to environmental issues will be prepared as part of the Final EIR. As required by CEQA, responses to comments submitted by responsible public agencies will be distributed to those agencies for review at least ten days prior to consideration of the Final EIR by the Orange County Planning Commission, which will make a recommendation on the adequacy of the EIR to the Orange County Board of Supervisors. A public hearing will be held before the Orange County Planning Commission to consider the Project and the adequacy of the Final EIR, at which time public testimony will be received. A public meeting before the Orange County Airport Commission regarding the Project will also be held. The Airport Commission will also make a recommendation on the Project to the Board of Supervisors.

The Orange County Board of Supervisors is the decision-making body for the Project. The Board of Supervisors will consider whether to certify the EIR and to adopt findings relative to the Project's environmental effects. It will then take action to recommend outright approval, conditional approval, or denial of the Project. The County's approval of the Project would be contingent upon the City Council of Newport Beach and the governing boards of Stop Polluting Our Newport ("SPON") and Airport Working Group ("AWG") approving and executing the agreed upon amendment to the Settlement Agreement. The City of Newport Beach is a responsible agency and the Newport Beach City Council will use the Final EIR as the CEQA compliance document for its decision on the amendment of the Settlement Agreement.

Assuming all of the signatories (as defined in Section 2.3.1, below) approve the Project and execute the amendment to the Settlement Agreement, the amendment would be submitted to the U.S. District Court, Central District of California, with request to approve the same. In addition, although Federal Aviation Administration ("FAA") approval of the Settlement Agreement or its amendments is not required, the County will coordinate with the FAA regarding the Proposed Project's standing under the Airport Noise and Capacity Act of 1990 ("ANCA"), as well as the Airport's grant assurances and other federal laws. The FAA will not provide approvals, but rather provide advice and opinion regarding the application of established statutory and regulatory laws to the Proposed Project. No FAA approvals or federal funding are required to implement the Proposed Project.

## **2.3 PROJECT HISTORY**

JWA is owned and operated by the County of Orange and is currently the only commercial service airport in Orange County. In 1963, the Orange County Board of Supervisors adopted the first master plan for the development of JWA. Major recommendations of this plan were the reorientation of the runway to reduce flights over the Costa Mesa area, and the addition of a shorter runway for smaller aircraft. The implementation of these recommendations resulted in the runway configuration that exists today. In addition to the runway modifications, the old administration/control tower was demolished and replaced with a new FAA tower located at the west end of the airfield. The revamped Airport opened its runways to traffic in 1965, serving more than 45,000 passengers annually. In 1967, a new terminal building was constructed that could handle 400,000 annual passengers. By 1968, the new terminal building was handling nearly 750,000 annual passengers, almost double its design capacity.

In 1985, over 3.2 million passengers were served at JWA. In response to the need for additional airline service in the County, the Orange County Board of Supervisors approved a Master Plan

for facility improvements (February 1985), an airline access plan, and an associated Land Use Compatibility Plan.

In April 1985, the County, acting as the proprietor and operator of JWA, adopted the Master Plan (“the 1985 Master Plan”) for further development of physical facilities at the Airport and an increase in previously imposed limits on certain aircraft operations. In connection with the consideration and adoption of the 1985 Master Plan, the County prepared, circulated, and certified County EIR 508. The 1985 Master Plan allowed for the construction of new terminal facilities (the Thomas F. Riley Terminal which opened in 1990).

### **2.3.1 SETTLEMENT AGREEMENT BACKGROUND**

Following adoption of the 1985 Master Plan and the certification of EIR 508, litigation related to the Master Plan and EIR 508 was initiated by the County in the United States District Court for the Central District of California, and by the City of Newport Beach and two citizens groups (Stop Polluting Our Newport [“SPON”] and the Airport Working Group [“AWG”]) in Orange County Superior Court. In addition, in April 1985, there was then pending in the California Court of Appeals for the Fourth District an appeal by the County from an earlier trial court ruling made under CEQA in respect to an earlier Master Plan for JWA adopted by the County in 1981, and its related EIR (“EIR 232”).

In the summer of 1985, the County of Orange, the City of Newport Beach, SPON, and AWG (i.e., “the signatories”) reached a comprehensive agreement settling all pending actions and claims related to the 1985 Master Plan and EIR 508, as well as the pending appeal on the 1981 Master Plan/EIR 232 litigation. The agreement is commonly referred to as the “settlement agreement”. This agreement was memorialized in a series of stipulations signed and filed in each corresponding court (i.e., courts where those actions were then pending). The principal stipulation memorializing the substantive terms of the parties’ settlement agreement was filed in the federal court action initiated by the County for the 1985 Master Plan and EIR 508. The stipulation was accepted and confirmed by an order of the District Court after a hearing in December 1985. The original term of the settlement stipulation required that it remain in effect through December 31, 2005.

Subsequent to the 1985 approval of the Settlement Agreement, ANCA went into effect, which limits an airport operator’s right to impose new restrictions on aircraft operations without obtaining federal approval. Because of the 1985 Settlement Agreement, JWA’s noise and access restrictions are “grandfathered” under ANCA. As discussed further below, in 2003, the County of Orange and the signatories agreed to extend the Settlement Agreement for an additional 10 years (through December 31, 2015) in order to maintain the restrictions’ ANCA exemption status. And, recognizing that the expiration of the Settlement Agreement in 2015 (absent further amendment) may eliminate the restrictions’ “grandfathered” status under ANCA, and thereby potentially result in the County’s inability to retain the current restrictions on operations, the County of Orange and the signatories presently are evaluating the proposed Settlement Agreement Amendment.

The following sections provide an overview of the principal terms of the Settlement Agreement and discussion of ANCA.

## **PRINCIPAL TERMS OF THE ORIGINAL SETTLEMENT AGREEMENT**

The 1985 Settlement Agreement required certain modifications to various mitigation measures originally adopted by the County at the time it certified EIR 508. The principal terms of the 1985 Settlement Agreement related to restrictions and limitations on aircraft operations and commercial passenger facilities, as summarized below:

1. During Phase I, the County will not permit or allocate to commercial air carriers more than 39 annual Average Daily Departures (“ADDs”) by Class A<sup>2</sup> aircraft, and 55 ADDs by Class A and Class AA aircraft. During Phase II, the County will not permit or allocate to commercial air carriers more than 39 annual ADDs by Class A aircraft, and 73 ADDs by Class A and Class AA aircraft.
2. The County will not permit operations by any aircraft that generate single event noise levels at specified monitoring station locations greater than the noise levels specified in the Agreement and its subsequent amendments (essentially, the Class A aircraft noise limitations).
3. In any “Plan Year” (April 1–March 31),<sup>3</sup> the County will not permit more than 4.75 and 8.4 million annual passengers (“MAP”) to be served by scheduled commercial operators at JWA during Phase I and Phase II, respectively.<sup>4</sup>
4. The Agreement includes various square footage limitations pertaining to the commercial passenger terminal, including total terminal size (337,900 square feet), leasable interior floor space (271,000 square feet) and departure lounge holding areas (37,000 square feet).
5. The Agreement limits the number and type of buildings at JWA that may be used by commercial or commuter air carriers for passenger or baggage handling operations.
6. The Agreement limits the size and configuration of the passenger terminal departure lounge holding areas.
7. The Agreement permits a maximum of 14 loading bridges, of which no more than nine may be sized for aircraft as large as the Boeing 767. The remaining five loading bridges were to be designed for aircraft no larger than the Boeing 757. Each bridge is limited to serving one flight at a time.

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<sup>2</sup> At the time the Settlement Agreement was entered into, the ADDs at JWA were divided into three “classes” based on the noise characteristics of the aircraft on departure. The Class A flights are the noisiest. The next quietest class of ADDs is designated as Class AA. The quietest class is Class E.

The Class E flights do not have a maximum number of flights allowed because they are below the regulatory noise levels established in EIR 508 (86.0 decibels [“dB”] on the Single Event Noise Equivalent Level [“SENEL”]). However, the number of passengers on Class E flights does count toward the maximum million annual passengers (“MAP”) allowed by the Settlement Agreement.

<sup>3</sup> In 2012, the Plan Year definition was amended to correspond to the calendar year (i.e., January through December).

<sup>4</sup> When counting the MAP, each passenger arriving or departing on a commercial air carrier is counted as separate passenger. Therefore, an individual taking a round trip from JWA would count as two passenger trips in calculation of the MAP.

8. The Agreement limits public parking spaces to a maximum of 8,400 spaces, not including spaces contained in the existing runway 19R North Clear Zone (i.e., “Main Street lot”). Parking structures may not be more than four levels in height.
9. The then-existing curfew regulations and hours and the related single event noise level limitations contained in the County’s General Aviation Noise Ordinance (“GANO”) (County Ordinance 3505) must remain in effect.
10. The County must maintain in effect an ordinance that meets the basic policy objectives outlined in the GANO, as it existed at the time of the agreement.

The principal terms of the 1985 Settlement Agreement contemplated that the enumerated restrictions and limitations would be in place at JWA through December 31, 2005.

### **2.3.2 MINOR MODIFICATIONS TO THE SETTLEMENT AGREEMENT**

Since 1985, the signatories have executed various stipulations making minor modifications to the 1985 Settlement Agreement. One group of these subsequent stipulations occurred in 1995, which allowed the County to allocate two additional Class A ADDs to commercial air cargo carriers. This increased the total number of commercial Class A ADDs allowed under the settlement stipulation. Another group of subsequent stipulations occurred in 1997; these amendments modified maximum permitted single event noise limits at various noise monitoring station locations to recognize and accommodate changes in the location of specific monitoring stations when new noise monitoring equipment was installed. These modifications were merely technical in nature and did not change the Airport’s allowed noise characteristics.

### **2.3.3 2003 SETTLEMENT AGREEMENT AMENDMENT**

On December 5, 2000, the Orange County Board of Supervisors, by a unanimous vote, directed the County Executive Officer or his designee to work with the City of Newport Beach to study the potential of extending certain restrictions at JWA beyond December 31, 2005. On May 22, 2001, the Board approved a Memorandum of Understanding (“MOU”) between the County and the City for preparation of an EIR for these purposes. This EIR was designated as EIR 582, and was circulated for public review and comment pursuant to and consistent with the requirements of CEQA and the State CEQA Guidelines.

On June 25, 2002, the Board certified Final EIR 582 as adequate and complete and found that it contained all information required by CEQA, the State CEQA Guidelines, and the County Local CEQA Procedures Manual. In addition, the Board adopted statutorily required Findings of Fact, a Mitigation Monitoring and Reporting Plan (“MMRP”), and a Statement of Overriding Considerations consistent with the requirements of CEQA and the State CEQA Guidelines. At the same time, the Board authorized execution of an Amended Stipulation which had already gained approval from the other signatories.

Consistent with Board direction, JWA continued to engage in active discussions with incumbent and potential new entrant air carriers, the City, SPON, and AWG. In connection with discussions between the County and the airlines serving (or interested in serving) JWA, the airlines

requested certain capacity opportunities beyond those authorized by the Board action on June 25, 2002. Those were addressed in an Addendum to Final EIR 582, which the County prepared. The signatories approved modifications to the Settlement Agreement on December 10, 2002. The resulting "Settlement Agreement Amendment" and a related Addendum to Final EIR 582 ("Addendum 582-1") were accepted and approved by the Board. The modified Settlement Agreement was accepted by the signatories in early 2003; the United States District Court accepted the 2003 Amended Stipulation and modified the judgment to conform to the terms contained in the 2003 Settlement Agreement Amendment.

### **PRINCIPAL TERMS OF THE 2003 SETTLEMENT AGREEMENT AMENDMENT**

The modifications to the 2003 Amended Stipulation continued the essential terms and conditions of the 1985 Settlement Agreement regarding the County's development and operation of JWA, with certain capacity-enhancing modifications, including those listed below.

1. Defining all regulated passenger flights as Class A flights and eliminating the Class AA aircraft definition/distinction. The definition/distinction for Class E aircraft remained unchanged.
2. Increasing the number of regulated flights allocated to passenger commercial carriers at JWA from 73 ADDs to 85 ADDs. The increased number of flights was permitted to start on January 1, 2003, with the limitation extending through December 31, 2015.
3. Increasing the MAP level served at JWA from 8.4 MAP to 10.3 MAP, from January 1, 2003, through December 31, 2010, and increasing the MAP level from 10.3 MAP to 10.8 MAP, beginning on January 1, 2011, through December 31, 2015.
4. Continuing to allow the permitted number of operations by "Exempt Aircraft" (i.e., Class E Aircraft) to be unlimited, except that the combined number of passengers served by Commuter Aircraft, Class E Aircraft, and Class A Aircraft in regularly scheduled commercial service will not exceed 10.3 MAP from January 1, 2003, through December 31, 2010, and 10.8 MAP from January 1, 2011, through December 31, 2015.
5. Increasing the number of cargo flights from 2 Class A ADD to a total of 4 Class A ADD cargo flights, for a combined total of 89 Class A ADDs (commercial and cargo flights), from January 1, 2003, through December 31, 2015.
6. Providing the passenger commercial carriers with the opportunity to use up to two of the Class A ADD cargo flights if there is no demand for these cargo flights by cargo air carriers.
7. Increasing the permitted number of commercial passenger loading bridges at JWA from 14 loading bridges to 20 loading bridges through December 31, 2015, and providing up to 2 hardstand positions<sup>5</sup> for aircraft arriving at the Airport.

As identified above, the 2003 Settlement Agreement Amendment allowed an increase in the number of regulated Class A flights; the number of passengers served at JWA to increase from 8.4 MAP to 10.8 MAP; and facility improvements. Though JWA does not currently serve the

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<sup>5</sup> Hardstanding refers to when an aircraft is parked on the tarmac and passengers ingress and egress the aircraft from the tarmac rather than using a jetway.

allowed 10.8 MAP and not all the Class A ADD are being utilized, the impacts associated with all aspects of the 2003 Settlement Agreement Amendment were fully addressed and appropriate mitigation measures adopted as part of Final EIR 582. The facility improvements allowed under the 2003 Settlement Agreement Amendment, which included Terminal C, were largely completed in 2011.

Though the nature of the Project is similar to the 2003 Settlement Agreement Amendment, it is a distinct project pursuant to CEQA and, therefore, this standalone project-level EIR has been prepared. That being said, applicable information from Final EIR 582 has been incorporated by reference into Section 4.2, Biological Resources and Section 4.4, Hazards and Hazardous Materials of this EIR. The parameters of the incorporation by reference are provided in those sections.

### **2.3.4 AIRPORT LAND USE COMPATIBILITY PROGRAM**

On February 23, 1972, the County adopted Resolution No. 72-204, which designated JWA to have a “noise problem,” as that term is defined in Section 5020 of the California Noise Standards (21 CCR Sections 5000 et seq.). If an airport has been designated by the county to have a “noise problem,” there can be no incompatible uses inside the noise contour line with a Community Noise Equivalent Level (“CNEL”) value of 65 dB, unless the airport proprietor has applied for or received a variance pursuant to the California Noise Standards. A variance is essentially an administrative procedure that is included in the California Noise Standards to allow an airport proprietor to develop and implement programs to reduce the “noise impact area” around the airport. JWA has been granted five variances from Caltrans, Aeronautics Division, as follows: November 1974, December 1976, March 1979, July 1982, and June 1987. The County currently has a pending variance application with Caltrans consistent with the requirements of the California Noise Standards.

In 1984, to address the noise problem, the County of Orange prepared the Land Use Compatibility Program (“LUCP”) for areas south of the Airport where existing residential uses experienced higher noise levels than those normally considered compatible with residential land uses. The study area included portions of what was then unincorporated Santa Ana Heights and certain neighborhoods within the City of Newport Beach. The purpose of the LUCP was to: (1) establish a program to achieve land use compatibility between projected noise levels at JWA and land uses in all affected areas; (2) develop a long-range plan for the unincorporated Santa Ana Heights area; and (3) ensure conformance with CCR Title 21, the Orange County General Plan, and Airport Land Use Commission policies.

In February 1985, the Board of Supervisors concurrently adopted the JWA Master Plan and the Santa Ana Heights LUCP. As a result of the analysis provided in the LUCP, the *Santa Ana Heights Specific Plan* (“SAHSP”) was developed and approved by the Board of Supervisors in 1986. (The City of Newport Beach incorporated the SAHSP into their municipal code so that it would be applicable at the time of annexation for these County islands.) The SAHSP identified incompatible residential uses based upon the projected 65 dB CNEL for year 2005, as shown in Final EIR



508/Environmental Impact Statement (“EIS”).<sup>6</sup> In order to implement the approved plan, a Land Use Element amendment was adopted that reclassified certain residential areas to employment and commercial uses. Properties fronting on South Bristol Street were redesignated as commercial or employment, while properties along Birch and Acacia Streets were redesignated to employment (i.e., business park) uses.

The SAHSP provided the land use regulations for implementing the LUCP specific to the approximately 450-acre area of the then unincorporated Santa Ana Heights community.<sup>7</sup> Objectives of the SAHSP included: (1) encouraging an upgrade of all residential neighborhoods; (2) ensuring that business park and residential uses and their impacts are adequately buffered from each other; (3) enhancing equestrian opportunities and the overall aesthetic character of the community; and (4) ensuring adequate provision of public facilities as development occurs. In order to meet State airport noise requirements in residential areas, the Orange County Board of Supervisors approved two noise compatibility programs: purchase assurance and acoustical insulation. In areas where residential uses were planned to be eliminated, the Board adopted amendments to the General Plan Land Use Element providing for land use conversion to business park uses. These non-conforming residential uses were not eligible for insulation. Since the adoption of the SAHSP, the residential uses within the Business Park zone have been reduced from approximately 12.5 acres in 1990 to approximately six acres in 2013. There are 76 uninsulated dwelling units remaining in this area.

The County completed the acoustical insulation program in the then-unincorporated Santa Ana Heights and the Anniversary Tract neighborhood in the City of Newport Beach for those residences that were willing to participate in the program. In conjunction with the installation of the acoustical insulation, aviation easements were granted to the County. The acoustical insulation program, together with the conversion of other residential uses to business park uses, are part of the noise reduction program implemented by JWA to reduce the noise impact area around the Airport.

## **2.4 AIRPORT NOISE AND CAPACITY ACT OF 1990**

As mentioned above, subsequent to the 1985 Settlement Agreement, the U.S. Congress enacted the Airport Noise and Capacity Act of 1990 (“ANCA,” 49 U.S.C. §47521 et seq.). In the legislative findings, the U.S. Congress explained that “aviation noise management is crucial to the continued increase in airport capacity” because “community noise concerns have led to uncoordinated and inconsistent restrictions on aviation that could impede the national air transportation system.” (49 U.S.C. §47521(1)-(2).) Therefore, the U.S. Congress emphasized that a “noise policy must be carried out at the national level.” (49 U.S.C. §47521(3).)

As a general matter, ANCA precludes the local imposition of noise and access restrictions that are not otherwise in accordance with the national noise policy. That being said, a limited set of exemptions to the requirements of ANCA were provided upon ANCA’s enactment. Here, ANCA’s

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<sup>6</sup> The 1985 environmental document was prepared as a joint EIR/EIS. The EIR is prepared pursuant to CEQA. An EIS is prepared pursuant to the National Environmental Policy Act (“NEPA”) and was the required environmental compliance document for all federal approvals. Federal approvals are required when modifications to the airfield are proposed and actions that involved federal funding. For the current Project, no federal actions that require NEPA compliance are anticipated.

<sup>7</sup> Subsequent to the approval of the LUCP and the *Santa Ana Heights Specific Plan*, the area south of the Airport was annexed into the City of Newport Beach. The area east of Irvine Avenue was annexed in January 2002, and the area west of Irvine Avenue was annexed in January 2008 (Newport Beach 2010).

limitations do not apply to JWA's curfew, ADD and MAP limitations, etc. because the 1985 Settlement Agreement is "an intergovernmental agreement including an airport noise or access restriction in effect on November 5, 1990." (49 U.S.C. §47524(d)(3).) ANCA also provides that a "subsequent amendment" to the 1985 Settlement Agreement is not subject to ANCA provided that amendment "does not reduce or limit aircraft operations or affect aircraft safety." (49 U.S.C. §47524(d)(4).) Accordingly, this EIR refers to the 1985 Settlement Agreement (and subsequent amendments thereto) as being "grandfathered" under ANCA and free from the restrictions that ANCA otherwise would impose. In the event that the Settlement Agreement expires, other interested entities – including, but not limited to, the FAA and commercial air carriers – could initiate legal action challenging the maintenance of any noise and access restriction at JWA on the basis that such restrictions violate ANCA.

## **2.5 ENVIRONMENTAL SETTING**

The Airport is an unincorporated County island surrounded by the cities of Newport Beach, Costa Mesa, and Irvine. An extensive arterial highway and freeway system surrounds the Airport, providing access from several locations. Freeway access to the Airport is provided via Interstate ("I") 405, State Route ("SR") 55, and SR-73. Arterial access to the terminal area is from MacArthur Boulevard and Campus Drive. Arterial access to the uses on the west side of the Airport is from Red Hill Avenue.

JWA serves both domestic and international destinations, with flights to Canada and Mexico. Total passengers through JWA peaked in 2007, when nearly 10.0 MAP used the Airport. Since 2007, passenger levels tapered to 8.6 MAP in 2011. Based on the 2012 Airport Facilities Comparison Survey, JWA served 8,857,944 passengers in 2012. This represents a three percent increase in passengers compared to 2011 (Hirsh Associates 2013). In 2013, JWA served 9.2 million passengers.<sup>8</sup> The Airport also serves commercial air cargo demands (i.e., Fed Ex and UPS). Air cargo tonnage at JWA was over 17,000 tons in 2013.

Facilities at the Airport include two runways: a 5,701-foot main runway and a 2,887-foot general aviation runway. The existing taxiway system is comprised of three parallel and a number of exit taxiways, which facilitate the movement of aircraft while on the ground at JWA. There is a "remain overnight" ("RON") parking apron located primarily south of the passenger terminal with some RON positions also located at the north end of the terminal building. The south apron area also serves all-cargo aircraft and cargo staging during daytime operating hours. The combined north and south RON facilities encompass approximately 56,000 square yards and 13 narrow-body parking positions. However, the north RON area is shared with the north commuter terminal. As a result, if three commuter aircraft are parked at the commuter terminal only one narrow-body RON space is available for a total of eleven spaces. Aircraft can also be parked at each of the 20 gates with passenger loading bridges.

The terminal building is one contiguous building encompassing 730,505 square feet and providing 20 passenger loading bridges. Several improvements and expansions have occurred

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<sup>8</sup> The NOP identified that JWA currently served approximately 8.9 MAP. This estimate used data for the first six months of 2013 and projected the expected number of passengers to be served for the entire year. This estimate was updated to approximately 9.17 MAP as part of the *Aviation Forecasts Technical Report* (Appendix B) prepared for this Project. The updated projection used actual passenger data through August as the basis for projecting passenger levels through the end of 2013. The 9.17 MAP was used as the basis for the technical studies in this EIR since they were initiated prior to the end of 2013.

over time, with the most recent one being “Terminal C,” completed November 2011, which added 282,000 square feet and 6 gates. The terminal includes security screening checkpoints, federal inspection services for international flights, baggage claim area, and ticket counters along with a variety of concessions, retail space for rental car companies and other ground transportation options. Commuter holdroom areas are located at the north and south end of the concourses, at Gates 1A, 1B, and 1C and Gates 22A, 22B, and 22C, respectively. These facilities are sized to accommodate three CRJ-700 (70-seat) aircraft each. Access to the commuter aircraft is from the tarmac and not via a passenger loading bridge.

In addition to scheduled commercial operations and activities, the Airport is home to general aviation. JWA is one of only two airports in the County which accommodate general aviation. JWA is served by two full service and two partial service fixed base operators and was home to 419 general aviation aircraft in 2013. The total general aviation based aircraft were relatively constant from 2003 through 2007. There was a decline in the number of aircraft in 2008, followed in 2009 with an increase which represented the peak number of based general aviation aircraft experienced over the last 10 years: 604. There has been a steady decline since 2009.

As shown on Exhibit 2-1, Existing On-Site Uses, other key facilities on the Airport include:

- Parking structures on the east side of the Airport that can accommodate 6,597 automobiles, in addition to 1,959 long-term parking spaces in the Main Street lot;
- An air traffic control tower on the west side of the Airport;
- An electrical co-generation facility located on the east side of the Airport;
- The Airport Rescue and Fire Fighting (“ARFF”) facility (Station No. 33), operated by the Orange County Fire Authority (“OCFA”), located on the west side of the airfield adjacent to the air traffic control tower near Paularino Avenue.<sup>9</sup>
- An aviation fuel farm is located on the west side consisting of three aboveground tanks connected by an underground line to the hydrant system serving the air carrier gate positions on the terminal ramp.
- A general aviation fuel farm with underground tanks located on the southeast corner of the field. (The fuel farms are discussed in more detail in Section 4.5, Land Use.)
- An Airport maintenance facility located at the corner of Campus Drive and Bristol Street North. In addition, a new maintenance facility has been constructed on the west side of the Airport.
- The primary Airport administration offices located off the airfield at the corner of Paularino Avenue and Airway Avenue.

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<sup>9</sup> A second fire station (Station No. 28), located one mile away in the City of Irvine on Gillette Avenue, northeast of the Airport, provides initial emergency medical response, rapid water rescue, and primary structural fire protection.



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## Existing On-Site Uses

John Wayne Airport Settlement Agreement Amendment

Exhibit 2-1



0.25 0.125 0 0.25 Miles





In addition to the terminal and airfield area, the County of Orange/JWA owns property south of the Airport, which serves as a clear zone and has been developed as a golf course. Long-term and employee parking is located north of I-405.

The area surrounding the Airport is generally urban in character. Surrounding uses include industrial, commercial, and residential uses. The residential area is predominately south and southwest of the Airport. In addition, open space is located south of the Airport. The Upper Newport Bay is an important natural area that provides habitat to many wildlife species.

As part of its ongoing efforts to operate JWA in a manner sensitive to the residents who live under the approach and departure corridors, the County of Orange has developed one of the most stringent access and noise abatement programs in the country. To obtain data on the noise characteristics of Airport operations, the County has established a sophisticated Airport Noise Monitoring System (“ANMS”), which monitors aircraft noise levels and obtains accurate data regarding aircraft flight tracks and fleet mix. The noise levels of all commercial aircraft operations and many general aviation operations are recorded at 10 permanent noise monitoring stations (“NMS”) around the Airport as part of the ANMS. The locations of the NMS are shown on Exhibit 4.6-9, provided in Section 4.6, Noise. That exhibit also shows the boundaries of the local jurisdictions. Three of the NMS are located in Santa Ana Heights (1S, 2S, and 3S), which has been annexed by the City of Newport Beach, four are located in the City of Newport Beach (4S, 5S, 6S, and 7S), one in Irvine (8N), one in Santa Ana (9N), and one in Tustin (10N).

The data from the ANMS is combined with data from other sources to permit unusually precise noise modeling. Radar trackings and noise levels measured at the NMS has produced very accurate depictions of flight tracks. Further, both CNEL and SENEL are monitored and calculated each day and for each aircraft. It is the noise level of the aircraft at the various NMS that determines if the flight is considered a regulated Class A flight or a Class E flight. For a flight to be considered a Class E flight, the noise readings at each of the NMS must be at or below 86.0 dB SENEL. There are aircraft that can operate as either a Class A (noisier flight) or a Class E flight dependent on the weight of the aircraft at takeoff. This is influenced by the number of passengers and amount of fuel on the flight.

The JWA Access and Noise Office is primarily responsible for monitoring compliance with and enforcing regulations regarding aircraft noise and operational restrictions. Two regulatory documents govern noise and operational capacity at JWA: (a) the Phase 2 Commercial Airline Access Plan and Regulation (“Access Plan”); and (b) the GANO. The Access Plan regulates commercial passenger and cargo carrier operations at JWA by placing limits on the hours of operation, maximum number of regulated average daily departures and annual passengers, and noise levels. The GANO details restrictions for general aviation (privately owned aircraft) operations. General aviation operations are permitted 24 hours a day subject to compliance with the daytime noise limits and the more restrictive nighttime noise limits. The Airport’s maximum permitted noise levels for each NMS for commercial aircraft (Class A and Class E) and for general aviation (daytime and nighttime) are shown in Table 2-1 below.

**TABLE 2-1**  
**MAXIMUM PERMITTED NOISE LEVELS AT**  
**JWA NOISE MONITORING STATIONS**

Noise Monitoring Station	Commercial Aircraft		General Aviation	
	Class A	Class E	Daytime	Nighttime
NMS 1S	101.8 dB SENEL	93.5 dB SENEL	101.8 dB SENEL	86.8 dB SENEL
NMS 2S	101.1 dB SENEL	93.0 dB SENEL	101.1 dB SENEL	86.9 dB SENEL
NMS 3S	100.7 dB SENEL	89.7 dB SENEL	100.7 dB SENEL	86.0 dB SENEL
NMS 4S	94.1 dB SENEL	86.0 dB SENEL	NET	86.0 dB SENEL
NMS 5S	94.6 dB SENEL	86.6 dB SENEL	NET	86.0 dB SENEL
NMS 6S	96.1 dB SENEL	86.6 dB SENEL	NET	86.0 dB SENEL
NMS 7S	93.0 dB SENEL	86.0 dB SENEL	NET	86.0 dB SENEL
NMS 8N	NET	NET	NET	86.0 dB SENEL
NMS 9N	NET	NET	NET	86.0 dB SENEL
NMS 10N	NET	NET	NET	86.0 dB SENEL
Note: NET = no established threshold				
Source: Freed 2014.				

To monitor and enforce the noise and operational restrictions, the staff utilizes a state-of the-art noise monitoring system to track each and every one of the approximate 248,000 commercial and general aviation operations that occur each year at JWA. Aircraft noise is measured twenty-four hours a day, seven days a week by seven NMS located along the departure corridor and three on the arrival corridor. The NMS transmit noise events to the Access and Noise office, enabling the staff to have real-time data on these aircraft operations used for measurement and reporting of aircraft operation compliance with the regulations.

The Access and Noise staff also answers approximately 2,500 calls a year regarding aircraft operations, noise complaints and questions, and requests for information. Calls to the office during business hours are answered directly by the staff. Calls received after hours with a request for a return call are researched and called back, usually by the next business day. All noise complaints are entered into the noise database and the statistics are reported by community in the JWA Noise Program Quarterly Report, and made available to the public on the Airport's web site at <http://www.ocair.com/reportspublications/AccessNoise/default.aspx>.

## 2.6 REGULATORY SETTING

The regulation of airports and aircraft is subject to a wide range of federal, State, and local statutes and regulations.

The federal government exercises authority over much of the field, including a complete preemption of the regulation of aircraft in flight undertaken for noise control or noise reduction purposes. In brief, all regulatory authority over procedures used in the operation of aircraft in flight and the control and use of the navigable airspace of the United States is exclusively federal. In addition, the federal government has regulatory authority related to aircraft and aircraft engine emissions.

The State of California is presently limited in its regulation of aircraft noise to the application and enforcement of the California Noise Standards (which are a regulatory structure adopted by the California Department of Transportation (“Caltrans”) under the authority of provisions of the *California Public Utilities Code* and which appear in Title 14 of the *California Code of Regulations*). The State also utilizes the provisions of the *California Public Utilities Code* to establish county-wide Airport Land Use Commissions (“ALUCs”) to set standards for primarily off-airport development in locations sensitive to aircraft-related noise. These regulations are discussed in more detail in the noise effects section of this EIR (Section 4.6, Noise). Generally, the State’s authority is preempted in this area and is limited to land use compatibility regulations with respect to airports and, at airports such as JWA, the State regulations cannot impose requirements regarding operational frequency of aircraft or regulations limiting the number, type, or time-of-day when aircraft operations occur. There is no aspect of the Project that is directly affected by existing State regulations.

The County, as the local governmental entity that owns and operates JWA, does have a recognized residual regulatory authority (despite the federal regulation of the field) for safety impacts and for purposes of limiting its own liability for noise. Historically, this regulatory authority has been constrained by various provisions of federal law. As discussed above, the County has exercised this limited (“proprietor”) authority over JWA since at least 1969 in an effort to strike an appropriate balance between the need for the Orange County community to receive air transportation services and the environmental effects of such activity in the areas surrounding JWA.

Since the adoption of ANCA, the exercise of this proprietor regulatory authority in the otherwise federally preempted field has been constrained to a substantial extent by federal law, at least with respect to proprietor restrictions first adopted after 1990. However, since JWA had adopted limitations on the number of commercial airline operations, maximum single event noise levels applicable to both commercial and general aviation operations, and noise restrictions applicable to nighttime operations (“curfew”) prior to the passage of the ANCA, these restrictions were “grandfathered” under the terms of that statute and its implementing regulations. As part of this Project, the County of Orange will coordinate with the FAA regarding the Proposed Project’s standing under ANCA, as well as the Airport’s grant assurances and other federal laws.

In adopting the 1985 Master Plan and as mitigation under EIR 508, the County adopted, modified, or left intact various operational restrictions for JWA, including limits on operations during certain nighttime hours; maximum permitted single-event noise levels at defined noise monitoring station locations; limitations on the number of ADDs by commercial airplane operators; and various other restrictions. These restrictions were and have been implemented by the County, among other means, by resolutions of the Board of Supervisors; amendments to County ordinances; and the adoption of both a “Phase 1 Commercial Airline Access Plan and Regulation” (1985–1990) and a “Phase 2 Commercial Airline Access Plan and Regulation” (1990–present). The Project for which this EIR has been prepared involves the consideration of possible modifications to the 1985 Settlement Agreement, as amended, including the extension of its present term. Implementation of any such modifications could involve corresponding modifications to the Access Plan and to relevant County ordinances.

## **2.7 ORGANIZATION OF THE DRAFT EIR**

This Draft EIR is organized into nine sections, with each containing its own references section. A list of the Draft EIR sections and a brief description of their contents is provided below to assist the reader in locating information.

- **Section 1.0, Executive Summary:** This section provides summaries of the Project Description, alternatives to the Proposed Project, environmental impacts, and mitigation measures.
- **Section 2.0, Project History and Setting:** This section briefly discusses the purpose of the EIR; describes the environmental review process; provides an overview of the Project history; and gives an overview of the EIR's organization.
- **Section 3.0, Project Description:** This section provides a detailed description of the Project characteristics and a statement of the Project Objectives.
- **Section 4.0, Existing Conditions, Impact Analysis, and Mitigation Program:** This section contains subsections 4.1, Air Quality, through 4.10, Water Quality. Within this section, the Proposed Project and alternatives are discussed. Additionally, for each alternative, the impacts associated with each of the timeframes for Project implementation are discussed. Each subsection includes discussions on the following topics: regulatory setting; existing conditions; thresholds of significance; impact analysis; mitigation program (if any); level of significance after mitigation; and references.
- **Section 5.0, Cumulative Impacts:** This section provides the cumulative analysis. For each topical area addressed in the EIR, there is an assessment of the potential for a cumulative impact.
- **Section 6.0, Long-Term Implications:** This section contains a summary discussion of any significant unavoidable impacts; potential growth-inducing impacts; and any significant irreversible environmental changes that would be caused by the Project.
- **Section 7.0, Alternatives:** Section 15126.6 of the State CEQA Guidelines requires that an EIR evaluate a range of reasonable alternatives. For this EIR, the Proposed Project and alternatives that were developed by the County of Orange, the City of Newport Beach, AWG, and SPON as part of the MOU for the second extension to the Settlement Agreement have been evaluated in Section 4.0. This Section considers one other alternative (the 2025 Horizon Year Alternative) that was developed to mitigate or avoid the significant effects the Project may have on the environment. This alternative proposes the same ADDs and MAP levels ultimately provided by Phase 2 of the Proposed Project, and would only extend the Settlement Agreement through December 31, 2025. In addition, this Section provides a discussion regarding alternatives that were rejected from further consideration due to their infeasibility, as well as identifies the environmentally superior alternative.
- **Section 8.0, Persons and Organizations Consulted:** This section lists the persons and organizations that were contacted to obtain data on the preparation of the Draft EIR.
- **Section 9.0, Preparers:** This section lists the persons that directly contributed to preparation of the Draft EIR.



Sections 1.0 through 9.0 are presented in Volume I of this Draft EIR. Appendices A through G are presented in Volume II.

## 2.8 REFERENCES

- AECOM. 2014 (April). *John Wayne Airport Settlement Agreement Amendment Environmental Impact Report Aviation Forecasts Technical Report*. Orange, CA: AECOM (Appendix B).
- California, State of. 2014a (current through). *California Code of Regulations* (Title 14, Natural Resources; Division 6, Resources Agency; Chapter 3, Guidelines for Implementation of the California Environmental Quality Act). Sacramento, CA: the State. [https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I8FC24D50D48811DEBC02831C6D6C108E&originationContext=documenttoc&transitionType=Default&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I8FC24D50D48811DEBC02831C6D6C108E&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)).
- . 2014b (current through). *California Public Resources Code* (Division 13, Environmental Quality; Sections 21000–21177). Sacramento, CA: the State. [http://leginfo.legislature.ca.gov/faces/codes\\_displayexpandedbranch.xhtml](http://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml).
- Freed, E.R. 2014 (May 9–10). Personal communication. Emails between E.R. Freed (Manager, Access and Noise) John Wayne Airport and K. Brady (BonTerra Psomas) entitled “JWA Access and Noise Program Description”.
- Hirsh Associates. 2013 (June). *2012 Airport Facilities Comparison Survey: John Wayne Airport Orange County*. Ridgefield, CT: Hirsh Associates.
- Newport Beach, City of. 2013 (June 11, current through). *Newport Beach Municipal Code* (Title 20, Planning and Zoning; Part 9, Specific Plans; Chapter 20.90, Santa Ana Heights Specific Plan). Seattle, WA: Code Publishing Company for the City. <http://www.codepublishing.com/CA/NewportBeach/>.
- . 2010 (January 13, last update). Santa Ana Heights: The Santa Ana Heights Community. Newport Beach, CA: the City. <http://www.newportbeachca.gov/index.aspx?page=112>.
- Orange, County of, John Wayne Airport (JWA). 2013 (March). PROPOSED PROJECT AND ALTERNATIVES: Proposed Extension of the John Wayne Airport Settlement Agreement). Costa Mesa, CA: JWA. <http://www.ocair.com/communityrelations/settlementagreement/docs/ProjectAlternativesExhibit2013-3-19.pdf>.
- . 2012. *2012 Annual Report: John Wayne Airport*. Costa Mesa, CA: JWA.
- . 2002a (December). *Addendum 582-1 Final Environmental Impact Report 582, John Wayne Airport Settlement Agreement Amendment*. Costa Mesa, CA: JWA.
- . 2002b (June). *Final Environmental Impact Report No. 582 for the John Wayne Airport Settlement Agreement Extension (SCH No. 2001011068)*. Costa Mesa, CA: JWA.
- . 1985. Stipulation for Entry of Final Judgment by Certain Settling Parties (Case No. CV 85-1542 TJH [MCx]). Costa Mesa, CA: JWA.

Orange, County of and the U.S. Department of Transportation, Federal Aviation Administration (County of Orange and FAA). 1985a (April). Airport System Master Plan. Santa Ana, CA: the County.

———. 1985b (February). *Final Environmental Impact Report 508 and Final Environmental Impact Statement for the John Wayne Airport Master Plan and Santa Ana Heights Land Use Compatibility Program* (SCH No. 83113009). Santa Ana, CA: the County.

———. 1984. *Airport Land Use Compatibility Program*. Santa Ana, CA: the County.

U.S. Congress. 1990 (as amended through 2005). 49 U.S. Code Chapter 475, Subchapter II – National Aviation Noise Policy. Ithaca, NY: Legal Information Institute, Cornell Law School. [http://www.lawa.org/uploadedFiles/LAX/noise/Part161/PDF/Airport\\_Noise\\_and\\_Capacity\\_Act\\_of\\_1990.pdf](http://www.lawa.org/uploadedFiles/LAX/noise/Part161/PDF/Airport_Noise_and_Capacity_Act_of_1990.pdf)

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