



AGENDA STAFF REPORT

ASR Control 23-000565

MEETING DATE: 07/25/23
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): 5
SUBMITTING AGENCY/DEPARTMENT: John Wayne Airport (Approved)
DEPARTMENT CONTACT PERSON(S): Charlene V. Reynolds (949) 252-5183
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SUBJECT: John Wayne Airport Capacity Allocations for 2024 Plan Year

Table with 3 columns: CEO CONCUR (Pending Review), COUNTY COUNSEL REVIEW (No Legal Objection), CLERK OF THE BOARD (Consent Calendar, 3 Votes Board Majority)

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
Levine Act Review Completed: N/A
Prior Board Action: 11/8/2022 #2, 11/2/2021 #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 2024 Plan Year (January 1, 2024, through December 31, 2024), 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 2024 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 2024 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 2024 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 2024 Plan Year, pursuant to Section 5.1.1, as reflected in 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 2024 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 2024 Plan Year.

BACKGROUND INFORMATION:

Community Impact Assessment

The 2024 allocation recommendations have been made in the context of carefully balancing the needs of the Orange County community for adequate commercial air transportation facilities and the desire of the local community for environmentally responsible air transportation operations at John Wayne Airport (JWA). In addition, the allocation recommendations further reflect the experience of the County of Orange (County) in the management and operation of JWA and addressing the public concerns resulting from operation of the Airport.

Regulatory Structure

Consistent with the Settlement Agreement, as amended, and the Phase 2 Commercial Airline Access Plan and Regulation (Access Plan), regulation of a maximum number of Average Daily Departures (ADD) is one of two principal restraints imposed by the County to control aircraft noise in residential areas around JWA. Limitation on the maximum number of ADDs has been an element of the County's regulation of JWA since 1972. The Board of Supervisors (Board) previously approved capacity allocations on November 8, 2022, and November 2, 2021.

There are presently two defined classes of ADDs, Class A and E. The class of aircraft permitted the highest relative single event noise level is Class A. Based on the Settlement Agreement, the County is permitted to allocate 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 Class E Authorized Departures is not directly regulated by the County. Instead, the maximum number of Class E Authorized Departures is limited by the current million annual passengers (MAP) limitation of 11.8 MAP, which is the second principal restraint, under the 1985 Settlement Agreement, as amended.

The Access Plan identifies both Regular and Supplemental capacity allocations. The principal difference is that Regular ADDs are allocated on a long-term basis, while Supplemental ADDs are allocated on a short-term basis. 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 flexibility to ensure that the total passenger service level remains within the MAP limitation.

Attachment A identifies the specific ADD, Seat Capacity, and RON allocations for Qualified Air Carriers recommended by JWA for the 2024 Plan Year. The recommended Passenger Capacity and RON allocations to Qualified Commuter Carriers for the 2024 Plan Year are set forth in Attachment B.

New Entrant Allocations

While JWA is not recommending a capacity allocation to a new entrant Commercial Air Carrier for the 2024 Plan Year, JWA is requesting authorization to allocate 13,968 passengers to one new entrant Commuter Carrier, Southern Airways Express, for use during the 2024 Plan Year. Southern Airways Express is the only carrier on the new entrant Commuter Carrier waiting list and can be accommodated within the 400,000 passengers set aside for Commuter Carriers.

Associated Operating Group Provisions

The Access Plan allows carriers to declare annually an Associated Operating Group (AOG) for purposes of conducting operations at JWA. AOGs are formed by 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 2024 Plan Year.

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 to Alaska/Horizon and Delta/WestJet reflects AOG provisions of the Access Plan, and is set forth in Attachment A.

Allocation of Permanent Class E ADDs

The Access Plan allows an allocation 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. Currently, only Southwest requested and operates all 14 permanent Class E ADDs through December 31, 2025, as set forth in Attachment A.

Allocation of Class A ADDs Currently Under Direct County Control

The County currently has three 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. In order to maintain the MAP limitation, JWA is unable to allocate additional County-controlled Class A ADDs to the Commercial Passenger Air Carriers on a regular permanent or supplemental basis for use during the 2024 Plan Year.

Allocation of Class A Departures for Commercial Cargo Operations

The 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 Commercial Cargo Carriers have not requested those ADDs.

FedEx and UPS have each requested one Cargo Class A ADD, which are being recommended for allocation to them through December 31, 2024. In order to maintain the MAP limitation, JWA is unable to allocate two additional Cargo Class A ADDs to the Commercial Passenger Air Carriers.

Seat Capacity Allocations

A total of 16,508,853 seats were requested by the Air Carriers as part of the 2024 Plan Year allocation process. JWA is requesting to allocate a total of 14,050,941 seats for the 2024 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.

A total of 12,214,180 seats are recommended for allocation in support of Class A and permanent Class E operations. A total of 1,836,761 seats are recommended for allocation in support of Supplemental Class E operations, as set forth in Attachment A.

Section 6 of the Access Plan outlines 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.

Air Carrier Remain Overnight (RON) Allocations

A total of 29 RON positions were requested for allocation for the 2024 Plan Year. The Access Plan provides for an allocation of 27 Air Carrier RONs. Therefore, the Airport is requesting authority from the Board to waive the Section 5.1.1 RON limit for the 2024 Plan Year and authorize JWA to allocate up to 30 RONs for use during the 2024 Plan Year. The County has historically allocated and can safely accommodate up to 30 RON positions at JWA. Authorizing JWA to allocate up to 30 RONs will satisfy the 29 RON positions requested and allow one additional RON position if requested by an Air Carrier during the 2024 Plan Year for safe and efficient operations, emergencies, or aircraft maintenance issues. JWA further requests authorization to withdraw any excess RON capacity authorized by the Board, if safety becomes an issue.

Passenger Capacity Allocations to Commuter Carriers

Two Qualified Commuter Carriers, SkyWest Airlines and Delux Public Charters, LLC (JSX), have requested Passenger Capacity allocations for the 2024 Plan Year. SkyWest has requested an allocation of 200,931 (Delta – 153,232, United – 47,699) passengers. JSX has requested an allocation of 228,082 passengers. As discussed above, one new entrant Commuter Carrier, Southern Airways Express, has requested an allocation of 13,968 passengers. Section 3.5.1 of the Access Plan creates a Passenger Capacity set aside for the allocation of 400,000 Authorized Passengers.

JWA recommends that 13,968 passengers be allocated to Southern Airways Express, and 193,016 passengers be allocated to SkyWest for use during the 2024 Plan Year. JWA recommends that 193,016 passengers be *conditionally* allocated to JSX for use during the 2024 Plan Year and is discussed below. Therefore, JWA recommends that 400,000 passengers (193,016 conditionally) be allocated for Commuter Carrier use during the 2024 Plan Year, as set forth in Attachment B.

JWA requests authority to make supplemental allocations of additional Authorized Passengers during the 2024 Plan Year if 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.

JSX Allocation Conditions

JSX operates at ACI Jet's Fixed-Base 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 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 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, which is a tenant of the County. JSX has conducted operations out of ACI Jet's FBO leasehold for the 2018 through 2023 Plan Years.

JSX has again requested to operate at ACI Jet's FBO leasehold during the 2024 Plan Year. Consistent with operations by JSX during the past six Plan Years, JSX may operate at ACI Jet's FBO leasehold to the extent its operations fall within the 95,070 passenger levels, which is the allowance provided by previous environmental review of Commuter Carrier parking and traffic impacts at FBOs. To the extent JSX wishes to provide operations over its current allocation of 95,070 passengers during the 2024 Plan Year, JSX must move all operations to the Terminal. Essentially then, JSX can either operate 95,070 passengers at ACI Jet's FBO leasehold during the 2024 Plan Year, subject to ACI Jet approval, or move its operations entirely to the Terminal and provide operations for up to 193,016 passengers, subject to full TSA screening and security requirements.

RON Allocations to Commuter Carriers

In addition to the 30 RON positions requested for Commercial Air Carrier use, the Access Plan permits up to six RON positions for allocation to Commuter Air Carriers. JSX has requested an allocation of three RON positions, along with SkyWest (Delta) and Southern Airways Express, each requesting an allocation of one RON position for the 2024 Plan Year. JWA requests authority to allocate RON apron positions as follows: three positions to JSX, and one position each to SkyWest (Delta) and Southern Airways Express for use during the 2024 Plan Year. All five Commuter Air Carrier RON apron position allocations will be located on the commercial ramp for use during the 2024 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 for the JWA Settlement Agreement Amendment Project, certified by the Board on September 30, 2014, 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 2024 Commercial Carrier and Commercial Cargo Carrier Capacity Allocation

Attachment B - Plan Year 2024 Commuter Carrier Capacity Allocation

ATTACHMENT A
Plan Year 2024
Commercial Air Carrier and Commercial Cargo Carrier Capacity Allocation
(Effective 1/1/24)

JOHN WAYNE AIRPORT: PLAN YEAR 2024
Commercial Air Carrier and Commercial Cargo Carrier ADD, Seat Capacity, and RON Allocations

CARRIER	CLASS A CAPACITY					CLASS PE CAPACITY	CLASS E SEAT CAPACITY			RON SPACES	
	REGULAR CLASS A ADDs	REGULAR INTERNATIONAL CLASS A ADDs	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.	TOTAL SEAT CAPACITY	Gate	Apron
	Air Canada		1			1				123,708	
Alaska / Horizon ¹	15				15		470,384	8	2,033,936	3	1
Allegiant	3				3				401,868		
American	18				18		226,627	2	2,412,379	3	2
Breeze	3				3				300,852	1	
Delta/WestJet	10				10				1,390,800	2	2
FedEx ²	0.724				0.724						
Frontier	3				3				408,456		
Southwest	17	2			19	14	1,021,799	10	4,476,107	6	2
Spirit	3				3		15,811	0	415,483	1	
United ¹	17				17		102,140	2	2,087,352	4	2
UPS ³	0.601				0.601						
TOTALS:	90.325	3	0	0	93.325	14	1,836,761	22	14,050,941	20	9

Notes:

¹United and Alaska affiliate SkyWest will operate Class E Seat Capacity.

²FedEx was allocated 265 departures for PY 2024. 265/366 = 0.724 of one (1) Class A ADD.

³UPS was allocated 220 departures for PY 2024. 220/366 = 0.601 of one (1) Class A ADD.

ASSOCIATED OPERATING GROUPS - Individual Carrier Breakout											
Alaska ¹	12				12		245,074	4	1,641,730	3	
Horizon	3				3		225,310	4	392,206		1
Delta	8				8				1,112,640	2	2
WestJet	2				2				278,160		

ATTACHMENT B
Plan Year 2024
Commuter Carrier Capacity Allocation
(Effective 1/1/24)

JOHN WAYNE AIRPORT: PLAN YEAR 2024
Commuter Carrier Passenger and RON Allocations

CARRIER	2024 PASSENGER CAPACITY	2024 RONS
	PASSENGERS ALLOCATED	RON SPACES
Skywest	193,016	1
<i>(Delta Connection)</i>	<i>145,317</i>	<i>1</i>
<i>(United Express)</i>	<i>47,699</i>	
Delux ¹	193,016	3
Southern Airways	13,968	1
TOTALS:	400,000	5

Note: 1) If operations exceed 95,070 passengers annually, all operations must operate from the Thomas F. Riley Terminal.