

Los Angeles World Airports

September 10, 2013

David W. Louie, Chair
Los Angeles County Airport Land Use Commission
320 West Temple Street
13th Floor
Los Angeles, CA 90012

LAX

LA/Ontario

Van Nuys

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Sara Marie Lindsey
Executive Director

RE: IMPASSE APPEAL BY CITIES OF CULVER CITY AND ONTARIO, AND
COUNTY OF SAN BERNARDINO - (Project No. R2013-00396/Aviation Case No.
201300001)

Dear Chairman Louie:

In light of the recent release of the Airport Land Use Commission (ALUC) Staff Analysis on the matters referenced above, I am writing to further clarify LAWA's commitments as they relate to the future study of improvements considered through the LAX Specific Plan Amendment Study (SPAS).

First, in order to ensure that ALUC has the same understanding of the actions taken by the City earlier this year¹ we have listed them below. The City:

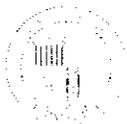
- Completed the Specific Plan Amendment Study (SPAS) required by the LAX Specific Plan and the LAX Master Plan Stipulated Settlement.
- Determined the SPAS had been conducted pursuant to the California Environmental Quality Act (CEQA), certified the SPAS EIR and adopted its related documents².
- Adopted a series of administrative amendments to the LAX Plan, the LAX Specific Plan, and the City of Los Angeles General Plan (following a consistency determination by the ALUC) that reflect completion of the SPAS, add new conditions to airport development, and redefine certain elements of the ground transportation facilities serving LAX.
- Selected the Staff-Recommended Alternative to serve as a starting point for required future detailed planning work.

The ALUC Staff Analysis suggests this last action was potentially conducted too "early" in the planning process. As it relates to this concern, LAWA can be abundantly clear – the selection of the Staff-Recommended Alternative does not provide LAWA with the ability to implement this Alternative. LAWA and the City have repeatedly stated that this Alternative is "subject to future detailed planning, engineering, and project-level environmental review", which includes evaluation under both the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA), and in relation to any proposed runway changes, LAWA would return to the ALUC for a review of the proposal for consistency with the Airport Land Use Compatibility Plan (ALUCP)³.

¹ Consideration, review, and action on these matters was conducted by the Board of Airport Commissioners, the City Planning Commission, the City Council, and the Mayor.

² Including the SPAS Mitigation Monitoring and Reporting Program (MMRP), CEQA Findings, and Statement of Overriding Considerations.

³ Pub. Utilities Code Sec. 21664.5; ALUC Review Procedures, Sec. 1.5.1(d).



These statements are memorialized, not only in the EIR⁴, but as part of LAWA's public outreach, and in the very action that the City Council took this spring.

The ALUC Staff Analysis indicates that other local agencies may feel as though they will not be able to "remain part of the airport planning discussion", and that the alternatives to be considered in the future may have been "limited to variants of the preferred Alternative". This is not accurate.

Prior to implementing any improvements studied under the SPAS EIR, LAWA will, in fact is required, to commence project-specific CEQA and NEPA review. Both of these processes require robust alternatives analysis, public involvement, agency review and public decision-making. The public will have numerous opportunities to provide feedback to LAWA and decision-makers prior to any final approvals. Policy makers, who will have the benefit of the additional public comment and more detailed analysis, will have fully-defined choices based on good information after extensive community outreach.

In order to provide maximum clarity, I've included a breakdown of the project-specific CEQA process as well as the federal NEPA process as Attachment A to this letter. However, I want to highlight one portion of the process that is most pertinent to the concerns expressed in the ALUC Staff Analysis: the CEQA process going forward requires LAWA to address any and all alternatives proposed by the public or any participating agency. Thus, it is abundantly clear that the public and all sectors of the community will have many opportunities to participate in the study process and both LAWA and the FAA will be studying alternatives to the Staff-Preferred Alternative.

In light of required steps before approval, including numerous opportunities for public comment and agency review, and the requirement to evaluate any proposed alternatives, there is simply no means by which the Appellants could be "excluded" from future planning at LAX. The law requires LAWA to include the appellants and any other engaged stakeholders in the planning process going forward. The ALUC should not assume that LAWA or the FAA will fail to follow the law based on unsubstantiated "concerns" put forth by the Appellants.

The selection of the Staff-Recommended Alternative at this point serves an important planning purpose and is not premature. The City made its selection after more than 6 years of extensive planning and environmental work, including more than 20 public meetings, consideration of over 2000 comments, votes by 6 policy making bodies, and at a cost in excess of \$10 million⁵.

In light of the alternatives analysis performed through the SPAS process, and the fact that required future environmental processes still require consideration of additional alternatives, it was appropriate to select a particular Alternative to advance the process.

⁴ In the Final EIR, this fact is stated more than 125 times.

⁵ During this process, the Impasse Appellants criticized LAWA because staff had not identified a recommended alternative until after the Draft EIR was finalized.

The very reason to conduct a programmatic CEQA study is to “consider broad policy alternatives and program-wide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts” and to provide an opportunity for public review of the programmatic analysis prior to proceeding into a more detailed and focused project-specific CEQA document⁶.

Importantly, the FAA Order implementing NEPA requires that NEPA be initiated through submission of a “proposal” in the form of a proposed Airport Layout Plan (ALP) or other federal action⁷. Thus, without the ability to identify a preferred alternative, LAWA would be placed in an endless planning cycle, unable to even initiate federal environmental review, much less modernize the airport. This state of suspended animation would apply to all proposed improvements in SPAS—both landside and airside improvements.

For the reasons stated above and in our prior communications, both the airport planning process and the City’s actions to-date are consistent with the purposes of the State Aeronautics Act⁸. LAWA is working diligently to “provide for the orderly development” of the airport⁹. Furthermore, given the extensive planning and analysis still ahead, LAWA has in no way “precluded consideration of other solutions that minimize the public’s exposure to excessive noise and safety hazards¹⁰.” To uphold the appeal based on the concerns cited regarding the effects of the SPAS process on the consideration of alternatives in future project-level analyses would require the ALUC to assume that both LAWA and FAA will ignore their obligations under CEQA and NEPA. There is no factual basis for this assumption. The information submitted shows that LAWA’s airport planning process is consistent with the purposes of the State Aeronautics Act. As such, the Commission must deny the appeal¹¹.

Going forward, LAWA is committed to a process that is methodical, transparent, and consistent with local, state, and federal law. LAWA believes that the clarifications included in this letter encourage the ALUC and other entities to remain engaged in the planning and modernization of LAX.

Sincerely,



Gina Marie Lindsey
Executive Director

Attachment

⁶ CEQA Guidelines Sec. 15168(a).

⁷ FAA Order 5050.4B at Para. 904.b.1; Para. 1004.c

⁸ Article 3.5 of Chapter 4 of the State Aeronautics Act, as set forth in Sections 21670, et seq. of the Public Utilities Code.

⁹ Public Utilities Code Sec. 21670(a)(1),

¹⁰ As stated in the ALUC Staff Analysis.

¹¹ ALUC Review Procedures 5.2.2.

ATTACHMENT A

The following listing specifies the steps LAWA must take prior to implementing any landside or airside improvements studied in the SPAS EIR. They include:

- **Project-Level Planning & Design:** LAWA must perform additional planning and design to define the Alternative sufficiently to support project-level environmental review. This includes developing a phasing and sequencing plan, construction methods, and key facility design features. LAWA must also review any changes to the regulatory or planning environment that may require modifications to the Staff-Recommended Alternative or to any other Alternatives that might be considered¹².

- **Project-Level CEQA Review:** LAWA must undertake environmental review at the project-level, pursuant to CEQA.
 - This process is initiated through a public scoping process that will provide a substantial opportunity for the public and other agencies to comment on what should be studied in the EIR¹³.
 - Project-level CEQA requires consideration of a reasonable range of alternatives¹⁴, including “No Project” alternatives which, in this case would include no airfield reconfiguration and no ground transportation improvements.
 - LAWA would be required to address alternatives that are suggested by the public and other public agencies during the CEQA process¹⁵.
 - An analysis of alternatives would be included in a Draft EIR, which would provide an opportunity for public comment.
 - LAWA would then prepare responses to public comment and a Final EIR for consideration by the Board of Airport Commissioners.
 - BOAC and the City Council would also review the project for consistency with the LAX Plan and LAX Specific Plan.
 - Meetings of the BOAC, the City Council, and any advisory bodies would take place in compliance with the Brown Act, which provides additional opportunities for public comment

- **NEPA Review:** LAWA would initiate federal environmental review, pursuant to NEPA, through submission of a proposed Airport Layout Plan (ALP) to the FAA.
 - Like CEQA, NEPA will require FAA to develop an Environmental Impact Statement (EIS) to implement any major SPAS elements.
 - Before undertaking a new EIS, NEPA provides an opportunity for public comment on the scope of the environmental process. During scoping, the Appellants and others can recommend any alternatives that they believe FAA should study in detail in the EIS.
 - In an EIS, NEPA requires a co-equal analysis of a reasonable number of Alternatives, including a “No Action” Alternative¹⁶. While the Staff Analysis indicates concern that only “variants” of the Staff-Recommended Alternative would be studied in future environmental processes, federal law requires FAA to make the determination regarding

¹² For example, changes to FAA Standards or to designs for the Crenshaw-LAX Corridor Light Rail Project.

¹³ CEQA Guidelines Sec. 15082.

¹⁴ CEQA Guidelines Sec. 15126.6(a and e).

¹⁵ CEQA Guidelines Sec. 15126.6(c).

¹⁶ FAA Order 5050.4B Sec. 706(d).

the scope of reasonable alternatives under NEPA, not LAWA. Indeed, FAA Orders prohibit LAWA or the City from limiting the scope of alternatives the FAA will consider¹⁷. Thus, neither LAWA nor the City has done anything that would limit the potential Alternatives to be considered under NEPA.

- Similar to CEQA, NEPA requires that the Draft EIS be circulated for public comment and response. In comments on the Draft EIS, Appellants and others can comment on the full range of potential alternatives.
- Following the public comment period, a Final EIS would be issued by the FAA and published in the Federal Register. Following the Final EIS, FAA can take action on the proposal in a Record of Decision (ROD).

• **Consideration by ALUC:** In the case that a final alternative is selected that includes a runway move or extension, state law provides that a modification to LAX's current state aviation permit would be reviewed for consistency by the ALUC¹⁸. Thus, any proposed runway move would return to ALUC prior to implementation.

¹⁷ FAA Order 5050.4B at Para. 1004.a.

¹⁸ Cal. Public Utilities Code Sec. 21664.5(b)(3).