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CHATTEN-BROWN & CARSTENS
Douglas P. Carstens, SBN 193439
Josh Chatten-Brown, SBN 243605
Michelle Black, SBN 261962
2200 Pacific Coast Highway, Suite 318
Hermosa Beach, CA 90254
310.798.2400; Fax 310.798.2402

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

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John A. Clarke, Executive Officer/Clerk
BY Cristina Grijalva Deputy
Cristina Grijalva

Attorneys for Petitioner,
ALLIANCE FOR A REGIONAL SOLUTION
TO AIRPORT CONGESTION

Dept 1

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

ALLIANCE FOR A REGIONAL SOLUTION)
TO AIRPORT CONGESTION,

CASE NO.:

BS143086

Petitioner,

v.

PETITION FOR WRIT OF MANDATE

CITY OF LOS ANGELES, a Municipal
Corporation, CITY COUNCIL OF THE CITY
OF LOS ANGELES; ANTONIO
VILLARAIGOSA, Mayor, City of Los
Angeles; BOARD OF AIRPORT
COMMISSIONERS; LOS ANGELES
WORLD AIRPORTS; GINA MARIE
LINDSEY, Executive Director, Los Angeles
World Airports and DOES I-X,

(CALIFORNIA ENVIRONMENTAL
QUALITY ACT)

Respondents.

CIT/CASE: BS143086
LEA/DEF#:
RECEIPT #: CCH195707048
DATE PAID: 05/30/13 01:41 PM
PAYMENT: \$435.00 310
RECEIVED:
CHECK: \$435.00
CASH: \$0.00
CHANGE: \$0.00
CARD: \$0.00

INTRODUCTION

1. This suit challenges the approval of a massive redevelopment and expansion of the impact footprint of the Los Angeles International Airport ("the Project"), at a cost projected to be \$4.5 billion. The cost is likely to be more as subsequent analysis is done and the true costs- both environmental and financial- are revealed. The Project includes relatively uncontroversial plans for adding terminal space, a consolidated car rental facility, a transportation center and links to light rail lines at the airport, also known as LAX. However, the Project also includes a highly controversial plan to unnecessarily move the northernmost LAX runway 260 feet closer to neighborhoods in Westchester and Playa del Rey, thus increasing the intensity of aircraft traffic because it would allow LAX to handle more passengers and cargo. The additional aircraft traffic and northerly runway movement closer to the adjacent community would create more severe noise, air quality, biological, aesthetic, and land use incompatibility impacts on land under the new flight paths as well as adjacent communities.

2. The Project includes an amendment to the City of Los Angeles' approval in 2004 of a Master Plan and Specific Plan for LAX. The Master Plan and prior Specific Plan are the subject of litigation by various public agencies and petitioner Alliance for a Regional Solution to Airport Congestion (ARSAC). That litigation was first resolved in 2006 through a settlement agreement among multiple parties that sought to guide future changes to LAX and create a collaborative process where stakeholders would be meaningfully involved in decisions the City's airport department, known as Los Angeles World Airports (LAWA), would take. However, the process envisioned by parties to that agreement, premised upon meaningful public involvement and adequate environmental review and mitigation of airport impacts, was not to be. Instead, LAWA continues to make unilateral decisions out of public view for poorly explained reasons and refused to choose the Environmentally Superior Alternative identified by its own analysis. With an incomplete understanding of the full range of its impacts and ways to mitigate them, the City adopted a Statement of Overriding Considerations to approve its chosen Project despite its significant adverse impacts on the surrounding communities and the region.

3. The Project would result in tremendous adverse environmental impacts on the

1 already severely impacted communities surrounding LAX. While adopting a Statement of
2 Overriding Considerations to approve the Project with significant environmental impacts on the
3 local community, LAWA refused to make serious efforts to expand operations at other LAWA
4 owned airports, or to see operations expanded at other airports within the Los Angeles Basin, as
5 an alternative to capacity expansion allowed by the Project. This refusal has resulted in a
6 substantial effort by the City of Ontario, County of San Bernardino, and numerous Inland
7 Empire Cities to free Ontario International Airport from the control of LAWA.

8 4. Despite massive public opposition, including by Congressional elected
9 representatives and the area's City Council representatives, the County of Los Angeles, and all
10 of the communities surrounding LAX, LAWA approved the Specific Plan Amendment.

11 5. In approving the Project, Respondents violated the California Environmental
12 Quality Act (CEQA) in numerous ways. Many of the impacts of the Project were not properly
13 analyzed and mitigated in the Environmental Impact Report (EIR) prepared for it. Other
14 deficiencies in the EIR include, but are not limited to, use of an inaccurate and unstable project
15 description; use of an unreasonable range of alternatives to the Project; failure to analyze the
16 inconsistencies between the Project and the Los Angeles County Airport Land Use Plan; failure
17 to respond to comments; inadequate notification for public participation; and adoption of
18 inadequate and deferred mitigation measures.

19 PARTIES

20 6. Petitioner Alliance for a Regional Solution to Airport Congestion (ARSAC) is a
21 grass roots organization established in 1995 to promote broadened use of regional commercial
22 air transport resources to meet the current and future aviation demands of the entire Southern
23 California region.

24 7. Respondent City of Los Angeles ("City") is a duly incorporated charter City and a
25 political subdivision of the State of California.

26 8. Respondent Antonio Villaraigosa is the Mayor of the City of Los Angeles.

27 9. Respondent City Council is the governing body of the City, and approved the
28 General Plan Amendments related to LAX and the LAX Specific Plan.

1 10. Respondent LAWA is a proprietary department in the City of Los Angeles,
2 created by City Charter.

3 11. Respondent Board of Airport Commissioners (BOAC) is the governing body of
4 LAWA, and is responsible for establishing airport policy.

5 12. Respondent Gina Marie Lindsey is the hired Executive Director of the Airports
6 Department of the City of Los Angeles, a proprietary department as defined in the City Charter.

7 **STATEMENT OF FACTS**

8 13. LAX is operated by Los Angeles World Airports (LAWA), which also operates
9 Van Nuys, Ontario, and, until recently, Palmdale airports. LAWA continues to own 17,750
10 acres of land in Palmdale for development of a future airport at that location.

11 14. LAX is the region's dominant international and domestic air service airport,
12 providing most of the region's air service. There are a number of smaller airports that augment
13 air service provided by LAX, including Ontario International Airport, John Wayne Airport,
14 Burbank-Glendale-Pasadena Airport, Long Beach Airport, Palm Springs International Airport,
15 Oxnard Airport, San Bernardino International Airport, and Palmdale Regional Airport.

16 15. LAX is the third busiest airport in the United States. LAX was originally built for
17 a capacity of 40 million annual passengers (hereinafter "MAP"). LAWA anticipated that it
18 would meet capacity for 40 MAP by 1975, with future air capacity growth occurring at Ontario
19 International Airport (ONT) and a future airport in Palmdale, Palmdale Intercontinental Airport
20 (PMD). LAX reached 40 MAP in 1987. In 2000, LAX served 67.3 MAP and 2.1 million
21 annual tons (MAT) of cargo. In the year ending 2004, due to the impact of September 11, 2001,
22 it served 61 MAP. In 2012, it served 63.7 MAP. The Specific Plan Amendment is ostensibly
23 designed to allow expansion to 78.9 MAP, but could allow far more capacity than that.

24 16. LAX is in the southwestern corner of the City of Los Angeles' city limits. LAX is
25 located within the City of Los Angeles on 3,651 acres of land approximately 12 miles southwest
26 of downtown Los Angeles. Unlike almost every other major airport in the United States, and
27 many in the world, that are at locations remote from major metropolitan areas, LAX is
28 surrounded essentially on three sides with residential development, with some commercial and

1 light industrial development. It is bordered on the north by the communities of Westchester and
2 Playa Del Rey, which are part of the City of Los Angeles, on the south by the City of El
3 Segundo, on the east by the City of Inglewood and unincorporated areas of Los Angeles County,
4 and on the west by the Pacific Ocean.

5 17. The area of Los Angeles that the Project would impact is densely populated, with
6 significant new residential and commercial development being developed and planned.

7 18. As a result of the proximity of LAX to residential developments, the surrounding
8 communities experience severe noise impacts, as well as exposure to very elevated levels of air
9 pollution and traffic congestion.

10 19. Population growth in the region served by LAX is primarily in the eastern and
11 northern areas such as northern Los Angeles County (including the cities of Palmdale and
12 Lancaster) and, to the east, Orange County, San Bernardino County and Riverside County. The
13 result of the rapidly expanding populations in areas that are served by LAX, but distant from it,
14 is longer and more congested drives for passengers and cargo traffic traveling to and from LAX
15 and for all Westside residents and businesses.

16 20. Under these circumstances, it is not difficult to understand the widespread local
17 support for a regional solution to air travel constraints that would spread airport traffic among a
18 number of regional airports, instead of concentrating the lion's share of increases in air traffic
19 into the relatively small area of the LAX airport.

20 21. LAWA has known for over four decades that LAX is too small and
21 inappropriately located to serve the needs of the region, as evidenced by its 1960s era purchase
22 of over 17,750 acres in Palmdale adjacent to a United States Air Force base, for future airport
23 expansion.

24 22. Traffic in the area around LAX is already extremely congested, with the nearby I-
25 405 Freeway notoriously slow even during weekends and non-rush hours. Local streets are
26 overburdened.

27 23. Vehicular traffic contributes to the local air pollution, which combined with air
28 pollution from airport operations, creates unhealthy air.

1 24. In addition to the significant air pollution and traffic congestion problems that will
2 be aggravated, rather than alleviated, by expansion of LAX's operations, noise pollution is
3 severe and projected by the EIR to get worse.

4 25. Currently there are numerous structures, including sensitive receptors such as
5 schools, within the 65 decibel (dB) range, which is considered the upper limit of acceptable
6 noise impacts. This envelope would be extended by the expansion plan to include new sensitive
7 receptors currently affected but not yet severely impacted by airport noise.

8 26. To understand the Specific Plan Amendment Study (SPAS) EIR used for the
9 Project, some background on the LAX Master Plan and Specific Plan approval process is
10 necessary.

11 **The LAX Master Plan Environmental Review Process.**

12 27. In 1997, LAWA began preparation of an EIR for an airport expansion master plan
13 that was eventually approved in 2004.

14 28. The Draft EIR for that expansion was released in January 2001, with three
15 alternatives.

16 29. Alternative A was the "Added Runway North" alternative. A new runway at the
17 north airfield complex would be added and two of the four existing runways would be
18 lengthened. It would accommodate approximately 97.9 MAP and 4.17 MAT in 2015.

19 30. Alternative B, the "Added Runway South" alternative would add a new runway to
20 the south airfield complex and extend two of the existing runways. It would accommodate
21 approximately 97.9 MAP and 4.17 MAT in 2015.

22 31. Alternative C, the "No Additional Runway" alternative and the originally
23 preferred alternative would have capacity for 89.6 MAP and 4.2 MAT in 2015. Four runways
24 would remain but two would be moved, one widened, three lengthened, and all of them
25 separated from each other. The existing airport facilities at that time supported 67 MAP and
26 LAWA subsequently stated that existing facilities could support up to a maximum 78.9 MAP.

27 32. During the public comment period for the Master Plan EIR, the vast majority of
28 those commenting opposed the LAX airport expansion and recommended instead that a regional

1 solution be pursued to meet the need to accommodate more passengers and more cargo in the
2 greater Los Angeles area. Special maneuvers by landing aircraft were often required to maintain
3 required aircraft wake turbulence spacing.

4 33. In addition to local opposition to expansion of LAX, communities near other
5 regional airports have generally opposed expansion at LAX in order to encourage expansion of
6 air service in their underserved communities.

7 34. Neighboring municipalities, governmental entities such as school districts and the
8 County of Los Angeles unanimously opposed the LAX expansion as formerly and currently
9 planned. In some cases opposition was tempered by settlement agreements providing for
10 monetary compensation. However, the monetary compensation does not reduce or avoid the
11 pollution, noise, or other significant impacts that would be created.

12 35. After September 11, 2001, there was a precipitous drop in air flights. Whereas in
13 2000, LAX served 67,303,182 MAP, by 2003, that number dropped to 54,982,838 MAP. As of
14 2012, the number had returned to the level of 63,688,121 MAP.

15 36. A Supplement to the EIR was released in July 2003, with a new Alternative D
16 drastically different than the three build alternatives previously described.

17 37. The major new elements of Alternative D were that there would be a new Ground
18 Transportation Center (GTC) adjacent to the 405 freeway, at the area known as Manchester
19 Square, and an Intermodal Transportation Center (ITC). The GTC would be between Arbor
20 Vitae Street and Century Boulevard on the north and south and between La Cienega Boulevard
21 and Aviation Boulevard on the east and west. The ITC would be southeast of the airport's
22 runways, just east of Aviation Boulevard and north of Imperial Highway. There would also be a
23 New West Satellite Area included in Alternative D.

24 38. The GTC and the ITC would be connected to the Central Terminal Area (CTA) by
25 an Automated People Mover (APM).

26 39. Existing parking at the Central Terminal Area would be demolished, as would the
27 concourses of Terminals 1, 2, and 3 and the northern end of the Tom Bradley International
28 Terminal (TBIT). Vehicle access to the Central Terminal Area would have been eliminated and

1 initial passenger access to LAX gate areas was located outside of the contiguous areas of the
2 airside field operations, raising a security issue.

3 40. Existing remote gates at the west end of the airfield would be demolished, and
4 under Alternative D, a West Satellite Concourse would be built to the west of the TBIT.

5 41. All four of the runways would be configured to handle larger planes, such as the
6 555 seat Airbus A380. Alternative D would extend the two North Airfield runways by over
7 1000 feet each so they would be 10,420 and 11,700 feet long. Each of the other alternatives
8 would similarly extend these runways. There were hundreds of objections to the new
9 Alternative D, including opposition from the two members of Congress who represent the
10 impacted communities surrounding LAX and more than 80 Southern California cities.
11 Opposition to Alternative D also focused on the expanded capacity at LAX, with attendant air
12 pollution, traffic, and noise problems; the loss of Manchester Square residential area and
13 existing businesses; and the inconvenience for travelers associated with use of the GTC and the
14 ITC.

15 42. Alternative D was carried forward into the SPAS EIR as Alternative 3.

16 43. There were discussions about deleting the highly controversial GTC, ITC, and
17 demolition of Terminals 1, 2, and 3 to allow the rest of the expansion plan to go forward. Thus,
18 these portions of Alternative D were "yellow lighted" while other portions of the project could
19 go forward.

20 44. This plan with "yellow lighted" projects was carried forward into the SPAS EIR as
21 Alternative 4.

22 45. The Final EIR on the LAX Master Plan was published in April 2004. The EIR
23 acknowledged that the following impacts would be significant and claimed they were
24 unavoidable: (1) Aircraft noise, including total population and dwellings exposed to aircraft
25 noise above 65 CNEL, single event night awakenings and school disruptions; (2) off-airport
26 traffic and circulation, including changes in demand through various intersections; (3)
27 environmental justice impacts are not determined but rather stated to be "pending final
28 mitigation program development"; and (4) air quality, including emissions from on-airport

1 operational emission sources and regional traffic emission increases. These impacts were
2 described by the EIR as significant and unavoidable under each of the "build" alternatives,
3 including Alternative D.

4 46. With respect to air quality, the mitigation monitoring program states "Other
5 feasible mitigation elements may be developed" that might include transit ridership measures,
6 highway improvements, parking measures, ridesharing measures, clean vehicle fleets, and
7 energy conservation. However, these measures were not required nor adopted as part of the
8 mitigation monitoring program.

9 47. In June of 2004, BOAC, the City Planning Commission and the Advisory Agency
10 approved the LAX Master Plan Program documents. In August of 2004, the County Airport
11 Land Use Committee (ALUC) unanimously determined that the LAX Master Plan was
12 inconsistent with the County Land Use Plan.

13 48. On December 7, 2004, the Los Angeles City Council overruled the Los Angeles
14 County ALUC determination for the LAX Master Plan Program; certified the FEIR and the
15 Addenda to it; adopted a Statement Of Overriding Considerations; approved a Mitigation
16 Monitoring And Reporting Program; approved the Final LAX Master Plan and Airport Layout
17 Plan; established a Specific Plan reflecting the "yellow lighting" of various project components;
18 and adopted various other measures within the Los Angeles General Plan and Westchester
19 Community Plan, thus approving the LAX expansion plan.

20 49. On or about December 30, 2004 in a process known as an impasse appeal
21 (Impasse Appeal), the City of El Segundo appealed Respondents' approval of the expansion
22 plan to the ALUC as inconsistent with the County Land Use Plan pursuant to the State
23 Aeronautics Act. (California Public Utilities Code section 21670, *et seq.*)

24 **Litigation Over the LAX Master Plan Was Filed and Then Resolved by Settlement.**

25 50. Petitioner ARSAC and other Petitioners filed petitions for writs of mandate in
26 January 2005.

27 51. The various cases were transferred to Riverside County Superior Court and
28 briefing commenced. The cases were consolidated under the name *City of El Segundo v. City of*

1 Los Angeles, Riverside County Superior Court case no. RIC 426822, consolidating Los Angeles
2 Superior Court case nos. BS094279, BS094320, BS094359, and BS094503.

3 52. After the election of a new mayor of the City of Los Angeles, extensive settlement
4 discussions were held. These settlement discussions resulted in a stipulated settlement
5 agreement (the Stipulated Settlement Agreement) in 2006. This settlement contained significant
6 commitments by LAWA to analyze an amendment to the approved Master Plan, commitments
7 to analyze and implement mitigation measures for various impacts, and commitments to make
8 good faith efforts to regionalize air traffic.

9 53. The 2006 Stipulated Settlement Agreement provided specific requirements for the
10 nature, scope, timing and procedural elements of the LAX Specific Plan Amendment Study that
11 had been identified in the LAX Specific Plan.

12 54. The 2006 Stipulated Settlement Agreement envisioned the focus of the Specific
13 Plan Amendment Study as follows:

14
15 . . . LAWA will focus the LAX Specific Plan Amendment Study on the following:

- 16 1. Potential alternative designs, technologies, and configurations for the LAX Master
17 Plan that would provide solutions to the problems that the Yellow Light Projects were
18 designed to address consistent with a practical capacity of 78.9 million annual passengers
(the "Alternative Projects"). . . .
- 19 2. Security, traffic and aviation activity of such alternatives designs, technologies, and
20 configurations for the Alternative Projects.
- 21 3. Possible environmental impacts that could result from replacement of the Yellow Light
22 projects with the Alternative Projects, and potential mitigation measures that could
23 provide a comparable level of mitigation to that described for the Yellow Light Projects
in the LAX Master Plan Program EIR.

24 (Stipulated Settlement Agreement, Section V [LAX Specific Plan Amendment Process],
25 Paragraph D, p. 9.)

26
27 55. Stipulated Settlement Agreement Section V required formation of a Specific Plan
28 Advisory Committee consisting of LAWA and all the petitioners in the various lawsuits.

1 LAWA committed to consulting with the members of the Advisory Committee during each
2 significant step of the LAX Specific Plan Amendment process.

3 56. The Stipulated Settlement Agreement required LAWA to undertake mitigation
4 measures for various impacts including aesthetics, air quality, biological resources, noise, and
5 traffic.

6 57. With regard to aesthetics, Stipulated Settlement Agreement Exhibit A section "G.
7 Aesthetic Mitigation," LAWA was obligated to establish a fund of \$1 million to participate in
8 street lighting projects affecting residential neighborhood adjacent to the northern boundary of
9 LAX. LAWA sent a letter to the Federal Aviation Administration (FAA) requesting the ability
10 to release funding for certain lighting projects. Only after making a California Public Records
11 request of LAWA was ARSAC able to obtain the LAWA request letter to the FAA and the FAA
12 response. In no case was ARSAC involved in the selection of the street lighting.

13 58. With regard to traffic, Stipulated Settlement Agreement section V.G required "For
14 any new significant traffic impact that is identified as a result of the traffic study [required by
15 the Settlement Agreement], LAWA will propose feasible mitigation measures, if any, to
16 mitigate the potentially significant impact." As explained later in the County of Los Angeles'
17 comment letter, LAWA did not propose feasible mitigation measures everywhere that was
18 necessary to mitigate potentially significant impacts. Mitigation was provided for only one out
19 of nine significantly impacted County intersections. The City of Culver City and City of
20 Inglewood also objected that traffic mitigation measures proposed were not adequate.

21 59. With regard to air quality, Stipulated Settlement Agreement Exhibit A, Paragraph
22 E required that LAWA prepare annual progress reports about its Air Quality and Source
23 Apportionment Study ("the Air Study") and forward them to Petitioners, consult with Petitioners
24 regarding the duration of the Source Apportionment Study, and inform Petitioners of the likely
25 completion date of the Air Study. LAWA committed to making best efforts to commence the
26 Air Study by December 31, 2006. As of January 2008, this Air Study had still not been
27 commenced. LAWA has stated that this would be a three phase study and in 2009 held a public
28 meeting to provide general objectives. LAWA has provided no written reports for any phase of

1 the study. LAWA staff verbally informed Petitioners that they anticipated completion of the Air
2 Study in the Spring of 2013, but have provided no documentation nor provided any status or
3 content briefings to ARSAC. LAWA currently anticipates completion of the study in June
4 2013.

5 60. Stipulated Settlement Agreement Section IX required LAWA to outreach to and
6 involve airport neighbors as it planned amendments to the LAX Master Plan. LAWA was
7 obligated to join a working group with ARSAC and a City Council District 11 representative
8 seeking input from other Petitioners, airport neighbors, and interested parties, to make
9 recommendations on how LAWA could improve and better coordinate efforts to hear from and
10 address the concerns of airport neighbors. As evidenced by the Councilmember of Council
11 District 11 eventually voting against the proposed Project, LAWA did not fulfill these
12 obligations. ARSAC complained in writing at a 2006 SPAS meeting that information was not
13 provided in advance of any coordination meeting to facilitate review and discussion. This fault
14 continues to date.

15 61. Stipulated Settlement Agreement Section VIII required that a Regional Strategic
16 Planning Initiative be prepared annually which describes potential marketing strategies,
17 potential opportunities for increased utilization of under-utilized facilities, and other techniques
18 by which LAWA can coordinate and support regional strategic planning for LAWA-owned
19 commercial airports within the region. The first regional strategic planning initiative was to be
20 prepared by December 31, 2006. LAWA prepared only one Regional Strategic Planning
21 Initiative, and that was not done until March 2007.

22 62. As part of regionalization, LAWA was obligated to form a "Regional Airport
23 Working Group" to coordinate with the Southern California Regional Airport Authority and
24 consider the feasibility of entering into a joint powers agreement to create a regional airport
25 authority. However, the Regional Airport Working Group was never formed. In order to better
26 promote regionalization, LAWA and the City of Los Angeles were obligated to "maintain
27 financial and operational control of LAX, Ontario International Airport, Palmdale Regional
28 Airport, and Van Nuys Airport." However, LAWA gave up financial and operational control of

1 Palmdale Regional Airport (PMD) by turning in the FAA airport operating certificate to the
2 FAA in 2009. LAWA also gave up financial and operational control of PMD by transferring the
3 passenger terminal lease at PMD to the City of Palmdale.

4 63. The Stipulated Settlement Agreement allowed a number of development projects
5 within the Master Plan to go forward as Petitioners agreed to drop their litigation and impasse
6 appeal in return for LAWA's various commitments. These developments that could proceed
7 included a new central utility plant, improvements to taxiways and the expansion of the Bradley
8 Terminal with new concourses and concession areas. However, other developments were to be
9 analyzed in a Specific Plan Amendment Study (SPAS) process.

11 **The Specific Plan Amendment Study Process.**

12 64. LAWA released its draft EIR for the SPAS amendment in July 2012 without any
13 prior coordination or early release of document content.

14 65. The Project thus includes an LAX Master Plan amendment, an LAX Specific Plan
15 amendment, amendments to the City general plan's land use element, transportation, and noise
16 element, and other discretionary actions listed in the EIR.

17 66. It was clear to petitioners from the draft EIR that LAWA had failed to adhere to its
18 commitments in the 2006 Settlement Agreement, and presented a draft EIR that did not meet
19 CEQA's requirement for adequacy in that it failed to identify a single proposed project, did not
20 include complete analysis of impacts such as air quality, or any analysis of impacts such as from
21 relocation of Lincoln Boulevard if LAWA eventually chose Alternative 1, as it did. Therefore,
22 petitioners tried to work with LAWA to develop an acceptable Specific Plan and ensure an
23 adequate public review process.

24 67. Although one of the first items requested of LAWA was to establish replacement
25 project criteria, none were provided before release of the draft EIR. The draft EIR set forth
26 seven objectives for the SPAS: (1) provide north airfield improvements that support safe and
27 efficient operation; (2) improve ground access; (3) maintain LAX's position as a premier
28 international gateway; (4) plan improvements that would not result in more than 153 passenger

1 gates at 78.9 MAP; (5) enhance safety and security at LAX; (6) minimize environmental
2 impacts on surrounding communities; and (7) produce an improvement program that is efficient,
3 sustainable, feasible, and fiscally responsible.

4 68. The Project EIR included nine alternatives, without a hint of what alternative or
5 combination of alternatives was the actual proposed Project. No preferred alternative was
6 specified in the draft EIR.

7 69. Alternative 1 would move a runway for the northern airfield 260 feet to the north.

8 70. Alternative 2 would not relocate a runway to the north, but would include other
9 northern airfield improvements such as redistributed high-speed runway exits and connecting
10 taxiways identified by LAWA as interim north runway safety improvements.

11 71. Alternative 3 was the "no project" alternative that would continue with the LAX
12 Master Plan and associated improvements- known as Alternative D in the Master Plan EIR.

13 72. Alternative 4 would be Alternative D without the "yellow lighted" projects.

14 73. Alternative 5 would move the northern runway 350 feet to the north.

15 74. Alternative 6 would move the northern runway 100 feet to the north.

16 75. Alternative 7 would move a southern runway 100 feet to the south.

17 76. Alternative 8 focused on ground access improvements, including a CONRAC- or
18 consolidated rental car facility- in addition to parking at an area called Manchester Square.

19 77. Alternative 9 also focuses on ground access improvements as in alternative 8 but
20 also included an automatic people mover (APM) rather than a busway.

21 78. None of the alternatives contained provisions implementing a concerted effort to
22 encourage the growth of planned annual passenger capacity at other regional airports rather than
23 continued growth at LAX.

24 79. Because LAWA did not identify any alternative as its preferred alternative or
25 proposed project when it released the draft EIR, members of the Advisory Committee objected
26 to the lack of identification of a preferred alternative and lack of project specificity. A key point
27 of selecting and evaluating alternatives was the requirement to identify the items that the Yellow
28 Light projects addressed. As LAWA focused solely on Yellow Light projects, there was no

1 description of the entire Project and how it would fit together as a Master Plan to guide future
2 airport development. Items that required major renovation, such as the passenger bridges from
3 the parking lots to terminals or upper roadway, were omitted. LAWA staff briefings to the
4 Board of Airport Commission included project elements such as a new terminal 1.5 which is not
5 identified anywhere in SPAS or Master Plan discussions with the SPAS participants.

6 80. In addition to failing to describe a single proposed project, the EIR failed to
7 analyze or mitigate impacts in various areas including air quality, traffic, biological resource
8 impacts, aesthetics, and others. Many of these areas had been the subject of LAWA
9 commitments to mitigation in the 2006 Settlement Agreement as described above.

10 81. The EIR identified Alternative 2, involving runway reconfigurations but no
11 northern runway movement, as the Environmentally Superior Alternative.

12 82. As part of its comments on the Draft EIR, petitioner ARSAC identified not only
13 the numerous shortcomings of the Draft EIR's analysis, but also where LAWA had failed to
14 measure up to the commitments of the 2006 Settlement Agreement. ARSAC asked that its
15 comments regarding compliance with the settlement agreement would be addressed before the
16 release of the Final EIR.

17 83. When the Final EIR was released in January 2013, LAWA identified its preferred
18 project as a combination of alternatives 1 and 9. Thus, it announced it was advocating an
19 alternative that would move the north airfield runway 260 feet closer to the community of
20 Westchester and Playa Del Rey to the north of the airport. Alternative 1 would also require the
21 relocation of Lincoln Boulevard, California State Highway 1- a major roadway north of LAX-
22 approximately 500 feet to the north. The relocation would create significant biological
23 resources impacts associated with modification of the Argo Drainage Ditch. Such movement
24 and tunneling would require consultation with the California Department of Transportation, the
25 Department of Water and Power, the Bureau of Transportation, and possibly the Army Corps of
26 Engineers, but LAWA did not undertake that consultation. Instead LAWA anticipated
27 conducting such consultation in a future review process even though they had already prepared
28 cost estimates for the project.

1 84. Following LAWA's release of the FEIR and its announcement of the actual
2 proposed project as consisting of Alternatives 1 and 9, public outcry was intense. While most
3 members of the public had no opposition to Alternative 9 with its associated ground access
4 improvements, the choice of Alternative 1 was highly objectionable.

5 85. At a meeting held by the Planning Commission at a local restaurant, it was
6 estimated that over five hundred people attended, and they overwhelmingly protested the choice
7 of Alternative 1 to move the runway 260 feet north. Many members of the public and public
8 officials representing the area around LAX advocated for a choice of Alternative 2 in
9 combination with Alternative 9 rather than a combination of Alternative 1 and 9. Although
10 there was a large public turnout, LAWA's public notification process failed to include all
11 interested parties as it relied on email, social media, and press releases rather than including
12 traditional mail notice to affected community members.

13 86. Among other objections, ARSAC objected that the Draft EIR contradicted the
14 Settlement Agreement signed in 2006 between LAWA and various petitioners because it
15 emphasized north runway movement, while failing to address traffic and other consequences,
16 rather than focusing on alternatives that would provide solutions to the problems that the Yellow
17 Light Projects were designed to address. To this date, LAWA has failed to identify or quantify
18 the specific problems that the yellow light projects addressed.

19 87. Rather than modifying its plans or making changes to respond to public and public
20 agency criticism, LAWA defended its plans and analysis for the next several months.

21 88. Among other claims, LAWA asserted that its EIR was a program EIR so that
22 detailed information that was requested by commenters was not necessary. LAWA also asserted
23 that the only possible choice was Alternative 1 because of the safety enhancements associated
24 with it, even though a multi-million dollar NASA study commissioned by LAWA established
25 that safety would not be significantly improved by runway movement. LAWA did not dispute
26 that these safety enhancements would be marginal and that the airports operations with current
27 runway configurations were already safe. Nonetheless, LAWA stuck to its newly identified
28 project of preferred Alternative 1, albeit combined with Alternative 9, and continues to fail to

1 provide any details regarding implementation or schedule.

2 89. The Board of Airport Commissioners approved the Project on February 5, 2013.

3 90. On February 13, 2013, LAWA applied to the Airport Land Use Commission for a
4 finding of General Plan Consistency Review for its proposed Specific Plan Amendment.
5 LAWA stated it would "need to conduct further project-level, technical, and other review of the
6 SPAS projects before it will be ready to seek FAA approval of any of the SPAS elements."

7 91. The Planning Commission approved the Project on February 14, 2013.

8 92. On or about March 6, 2013, LAWA and the City of Palmdale adopted an
9 agreement whereby LAWA assigned Palmdale Regional Airport to the City of Palmdale, in
10 violation of Settlement Agreement section VII that requires LAWA to maintain financial and
11 operational control of LAX, Van Nuys, Ontario International, and Palmdale Regional airports.

12 93. ARSAC sent a letter notifying LAWA of its default on the obligations set forth in
13 the 2006 Settlement Agreement on March 20, 2013.

14 94. ARSAC appealed the Planning Commission's approval of the SPAS project to the
15 City Council. This appeal was heard on April 9, 2013 by a joint meeting of the City Council's
16 Planning and Land Use Management Committee and Trade, Commerce, and Tourism
17 Committee. After limiting public comments, the Committees voted to recommend that the full
18 Council approve the staff preferred alternative combination of Alternatives 1 and 9.

19 95. On April 30, 2013, the City Council held a hearing on approval of the Project.
20 Congresswoman Maxine Waters appeared at the hearing to re-state her continuing objections to
21 the choice of Alternative 1 rather than Alternative 2 due to its impacts to the region and the
22 surrounding community. The Councilmember representing the area in which LAX is located,
23 Councilmember Rosendahl, and the area's Councilmember-elect, Mike Bonin, spoke strongly in
24 favor of Alternative 2 rather than Alternative 1. Councilmember (now Mayor-elect) Garcetti
25 also advocated the choice of Alternative 2 rather than Alternative 1. Despite these and other
26 elected officials' opposition to Alternative 1, the City Council voted to approve the Project.

27 96. On May 2, 2013, the City filed a Notice of Determination with the County Clerk.

28 97. On May 3, 2013, petitioner ARSAC filed a request for mediation with the City

1 pursuant to Public Resources Code section 21167.10. This section of the Public Resources
2 Code provides that if, within five business days of the filing of the request for mediation, the
3 public agency involved accepts the request, then the statute of limitations for filing a CEQA
4 lawsuit is tolled during the pendency of the mediation. However, if there is no response to the
5 request, it is deemed denied after five business days. The City provided no response to
6 ARSAC's request, thus it is deemed rejected. On May 7, 2013, the Cities of Inglewood, Culver
7 City, Ontario, and the County of San Bernardino made a similar request for mediation. They
8 received no response. On May 10 2013, the Service Employees International Union United
9 Service Workers West (SEIU USWW) made a similar request for mediation. They received no
10 response.

11 98. On May 14, 2013, the City Council voted to approve the first reading of an LAX
12 Specific Plan ordinance to implement the Project. The Council determined that no further
13 environmental review was necessary after having certified an EIR for the Project on April 30.
14 On that same day, petitioner ARSAC provided the City with requested clarification and further
15 information regarding its letter of notification of default with the terms of the Settlement
16 Agreement.

17 99. On May 20, 2013, the Cities of Culver City and Ontario and the County of San
18 Bernardino appealed the City of Los Angeles approval of the Specific Plan Amendments to the
19 Airport Land Use Commission pursuant to the California State Aeronautics Act, California
20 Public Utilities Code section 21670.2 (a).

21 100. On May 21, 2013, the City Council heard the second reading of the LAX Specific
22 Plan ordinance. Councilmember Rosendahl and Councilmember Zine spoke in favor of a
23 mediation process as requested by ARSAC, SEIU, and the Cities of Culver City, Ontario, and
24 the County of San Bernardino. City staff members responded that the Board of Airport
25 Commissioners had considered the mediation requests in closed session but took no action.
26 Thus, the requests were rejected.

1 **EXHAUSTION OF ADMINISTRATIVE REMEDIES, INADEQUATE**
2 **REMEDIES AT LAW, AND JURISDICTION**

3 101. Petitioner has exhausted all available administrative remedies before Respondents
4 in objecting to the approval of the Expansion plan, as required by Public Resources Code section
5 21177.

6 102. Petitioner has no plain, speedy, or adequate remedy at law, and thus seeks a writ
7 of mandate from this Court.

8 103. Petitioner has complied with the requirements of Public Resources Code section
9 21167.5 by mailing a written notice of commencement of this action to Respondents, a copy of
10 which is attached hereto as Exhibit A.

11 104. Petitioner has complied with Public Resources Code section 21167.7 by filing a
12 copy of the original petition with the California Attorney General. A copy of the letter of
13 notification is attached hereto as Exhibit B.

14 105. Petitioner hereby and by a separate election notifies Respondents that Petitioner
15 elects to prepare the record of the proceedings relevant to the approval of the expansion plan in
16 compliance with Public Resources Code section 21167.6. A copy of such notice is filed
17 concurrently with this Petition.

18 106. Pursuant to California Code of Civil Procedure sections 1085 and 1094.5, as well
19 as Public Resources Code sections 21168 and 21168.9, this Court has jurisdiction to issue a writ
20 of mandate.

21 **FIRST CAUSE OF ACTION**
22 **(Inadequate Project Description)**

23 107. Paragraphs 1 through 106 are incorporated here as if fully set forth herein.

24 108. The FEIR states that the staff recommended project, and therefore the proposed
25 project that is the subject of environmental review, includes the movement of the northern
26 runway 260 feet to the north (260 North Alternative-Alternative 1). LAWA's process of failing
27 to designate a specific proposed project deprived the public of the ability to focus their
28 comments on the proposed Project earlier in the process.

1 109. The EIR claims that with the Specific Plan Amendment LAX would serve no
2 more than 78.9 MAP, when in fact it would be able to serve far more passenger movements,
3 with the consequent additional impacts. LAWA failed to address the safety impacts that would
4 occur with increases in passenger movements. LAWA further failed to address the effect on
5 airport capacity of airspace reallocation in progress by the federal government.

6 110. LAWA has failed to prepare a complete Master Plan showing what would actually
7 be implemented with the Specific Plan Amendment in place.

8 111. LAWA failed to provide a complete Specific Plan Amendment ordinance with
9 relevant maps showing plan area boundaries prior to approval of the Project.

10 **SECOND CAUSE OF ACTION**

11 **(Inadequate Analysis of Impacts)**

12 112. Paragraphs 1 through 111 are incorporated here as if fully set forth herein.

13 113. Various types of environmental impacts including but not limited to traffic, air
14 pollution, and noise were understated because the Specific Plan does not enforceably limit
15 airport capacity to 78.9 MAP. LAWA claims that it is unable under federal law to restrict
16 airport capacity. Once planned airfields, terminals, and gates are built, airlines are allowed to
17 use them to the maximum extent possible. The northward movement of LAX's northern runway
18 would allow more and larger jets to be handled, thus increasing LAX's air traffic capacity.
19 Instead of analyzing how to meet aircraft movement capacity requirements by distributing air
20 traffic throughout its multiple-airport system, LAWA chose instead to focus all capacity
21 increases at LAX by providing additional capacity. Thus, although it asserts the Specific Plan
22 Amendment is designed for a capacity of 78.9 MAP, LAWA fails to acknowledge the true
23 capacity that the new airport configuration could serve. With more intense passenger and cargo
24 traffic, various environmental impacts such as noise, traffic, air quality that depend for their
25 severity on the amount of air traffic that occurs, will be exacerbated.

26 114. The EIR does not include complete information regarding various impacts. The
27 understated impacts include, but not are limited to: air, traffic, noise, land use, biological, and
28 cumulative impacts. While air, traffic, and noise impacts were determined to be significant even

1 with mitigation, that determination of significance does not obviate the need for proper analysis.
2 In order to override significant impacts, the EIR should have, but failed to, present accurate
3 information about the full extent of the Project's impacts.

4 115. Conditions on surrounding roadways at peak periods (which can last up to 4
5 hours) are already at Level of Service F, which is the most congested. The Project will result in
6 significant negative impacts on traffic, even with mitigation.

7 **Relocation and Tunneling for Lincoln Boulevard Realignment.**

8 116. LAWA failed to adequately address impacts of relocating and tunneling associated
9 with movement of a major road. ARSAC complained that moving a runway north 260 feet
10 would require relocation and potential tunneling of the busy Lincoln Boulevard (California State
11 Highway 1), with widespread traffic impacts.

12 117. The FEIR evaded answering questions about the planned realignment of Lincoln
13 Boulevard by asserting that detailed analysis would be disclosed in a future project level
14 environmental review and that the draft EIR is "a program-level document." However, the fact
15 that this EIR is labeled a "program" EIR rather than a "project" EIR matters little for purposes
16 of the sufficiency of its analysis and informational value to the public. The nature of the project
17 includes a planned runway realignment. Since sufficient specific information was available
18 about the planned realignment including its approximate length of 540 linear feet, its location,
19 and approximate depth of 30 feet, specific analysis should also have been included in the EIR,
20 not deferred to a future process. "An agency must use its best efforts to find out and disclose all
21 that it reasonably can." (Tit. 14 Cal.Code Regs. § 15145.) Additionally, LAWA failed to
22 address how Lincoln Boulevard and Sepulveda Boulevard would be reconnected after the
23 relocation of Lincoln Boulevard.

24 118. LAWA should not have evaded review of the Lincoln Boulevard Realignment or
25 responding to public questions about it by deferring to possible, but uncertain, future CEQA
26 review.

27 119. Additionally, LAWA does not commit to a future EIR for the Lincoln Boulevard
28 Realignment but rather vaguely refers to "project-specific CEQA review" that might be done by

1 LAWA or by Caltrans, depending upon who has responsibility for ownership and control of that
2 portion of road in the future. This is a vague deferral to an unspecified future form of
3 environmental review by an undetermined agency. Such future review might result in a
4 negative declaration or claim of exemption from CEQA. Thus, the FEIR's deferral of analysis
5 does not meet CEQA's requirements for full disclosure of meaningful information.

6 120. There is an extension of Lincoln Boulevard that was begun in approximately 1970
7 which was since abandoned called "Manchester Tunnel." It is a six lane highway located under
8 current runways. Major mitigation measures required for runway movement related to the
9 Manchester Tunnel were not mentioned and were deferred. LAWA staff examined the
10 Manchester tunnel during a drought and found standing water in it, but did not mention this in
11 the EIR. LAWA has since refused to assess water levels during normal rain production periods.

12 **Air Quality Impacts.**

13 121. LAWA failed to adequately address air quality impacts. ARSAC objected to the
14 inadequate air quality analysis in the Draft EIR. In addition to being required by CEQA, the
15 requirement for an adequate air quality analysis was part of the 2006 Settlement Agreement
16 between LAWA and petitioners including ARSAC.

17 122. Various comment letters identified omissions of vital information from LAWA's
18 air quality analysis.

19 123. In its comment letter on the draft EIR, the Southern California Air Quality
20 Management District (SCAQMD) stated that the results of a monitoring and air quality
21 apportionment study for "a diverse suite of pollutants" including black carbon and ultrafine
22 particles should have been included in the EIR, but that staff could not locate any discussion of
23 it. SCAQMD also referred to a black carbon and ultrafine particle study that was posted on the
24 Air Resources Board's website. SCAQMD rightly pointed out "As both of these studies were
25 conducted to help the public and decisionmakers for this project evaluate potential air quality
26 impacts from this facility, a robust description should be included in the Final EIR." Instead of
27 complying with SCAQMD's clear recommendation, LAWA responded that it is committed to
28 publishing a study in the Spring of 2013. As of the City's approval of the second reading of the

1 Specific Plan Amendment Ordinance on May 21, 2013 (two-thirds of the way through Spring),
2 neither study had yet been circulated by LAWA.

3 **Biological Resource Impacts.**

4 124. LAWA failed to adequately address biological resources impacts including, but
5 not limited to, failing to address impacts to sensitive biological resources that could be impacted
6 by the relocation of navigational aids to support the relocated runway. The FEIR asserted that
7 such impacts would be mitigated with implementation of various measures. However, the
8 effectiveness of the mitigation measures is not clear, and the impacts could have been avoided
9 altogether by the choice of Alternative 2. Additionally, the FEIR admits that Alternative 1
10 would create significant biological resource (jurisdictional waters and wetlands, and streambed
11 and riparian habitat) impacts associated with the modification of the Argo Drainage Ditch that
12 would not occur under Alternative 2. This is because Alternative 1 requires covering a drainage
13 channel called the Argo Drainage Ditch in order to put a runway over it, thus eliminating 3.78
14 acres of Army Corps of Engineers jurisdictional wetlands and 2.45 acres of non-wetland waters
15 of the U.S. The coverage of Argo Drainage Ditch would also eliminate California Department
16 of Fish and Wildlife jurisdictional areas in the form of 3.97 acres consisting of streambed and
17 vegetated banks, and vegetated riparian habitat. LAWA acknowledged that it did not consult the
18 Army Corps of Engineers before making the recommended changes to the channel. An
19 additional impact of the enclosure of the Argo Drainage Ditch is the LAWA decision to base its
20 capacity volume on a 10 year storm instead of the larger 50 year or 100 year storm standards.
21 LAWA did not analyze where overflow water would flow or congregate.

22 **Traffic Impacts.**

23 125. LAWA failed to adequately address traffic impacts including, but not limited to,
24 failing to address traffic impacts in the Central Terminal Area and surrounding access roads.

25 **Wastewater Treatment Line and Water Seepage Issues**

26 126. ARSAC complained that tunneling that would be required under Alternative 1 for
27 relocation of Lincoln Boulevard would give rise to issues with wastewater treatment line
28 relocation and water seepage. However, the LAWA avoided confronting these issues by

1 deferring them to a future analysis. Deferral of this analysis, as with deferral of analysis and
2 mitigation for other impacts, violates CEQA.

3 127. The FEIR denies that the project would impact the North Outfall Replacement
4 Sewer (NORS) and the North Central Outfall Sewer (NCOS) because of their depth. However,
5 the FEIR admits "LAWA has not identified other major utilities, including oil pipelines, in the
6 vicinity of the Lincoln Boulevard realignment." LAWA anticipates there will be numerous
7 utility lines such as sewers, water lines, storm drains, electrical lines, pipelines, and other
8 utilities, but relies on a yet-to-be-developed utility relocation program to minimize impacts.
9 This is impermissible deferral of analysis and mitigation for a foreseeable impact.

10 **THIRD CAUSE OF ACTION**

11 **(Failure to Analyze a Reasonable Range of Alternatives)**

12 128. Paragraphs 1 through 127 are incorporated here as if fully set forth herein.

13 129. CEQA requires that an EIR analyze a reasonable range of alternatives.

14 130. The EIR failed to analyze a reasonable range of alternatives because the EIR did
15 not consider the alternative of achieving the goal of serving additional passenger and cargo
16 traffic by significantly expanding operations at other regional airports owned by LAWA, such as
17 Ontario International Airport, despite persistent requests from public officials and members of
18 the public for LAWA to do so.

19 131. Alternatives that redistribute air traffic to other regional airports would have the
20 effect of reducing significant localized air pollution impacts. SCAQMD pointed out the
21 significant localized impacts that would be expected with the additional 11,000 pounds per day
22 of nitrogen oxide emissions from future aircraft activity. LAWA's response was that project-
23 level mitigation would be incorporated at project level analysis. However, alternative means of
24 reducing impacts, such as reducing LAX traffic and redistributing impacts were not analyzed
25 and are most appropriate for program level analysis.

1 **FOURTH CAUSE OF ACTION**

2 **(Failure to Ensure Consistency and Analyze Inconsistency with Los Angeles County**
3 **Airport Land Use Plan in EIR)**

4 132. Paragraphs 1 through 128 are incorporated here as if fully set forth herein.

5 133. An EIR is required to analyze the consistency of a proposed project with
6 applicable regional plans.

7 134. The EIR failed to adequately analyze the consistency of the Plan with applicable
8 regional plans, including but not limited to the Los Angeles County Airport Land Use Plan.

9 135. In Public Utilities Code section 21670, the California Legislature declared the
10 purpose of the California Aeronautics Act. "It is in the public interest to provide for the orderly
11 development of each public use airport in this state and the area surrounding these airports so as
12 to promote the overall goals and objectives of the California airport noise standards adopted
13 pursuant to Section 21669 and to prevent the creation of new noise and safety problems."
14 Furthermore, "It is the purpose of this article to protect public health, safety, and welfare by
15 ensuring the orderly expansion of airports and the adoption of land use measures that minimize
16 the public's exposure to excessive noise and safety hazards within areas around public airports to
17 the extent that these areas are not already devoted to incompatible uses."

18 136. To ensure that these purposes are achieved, the Public Utilities Code requires that
19 each county with an airport serviced by a scheduled airline establish an airport land use
20 commission. (Pub Util. Code § 21670(b).) Each commission is responsible for formulating, "an
21 airport land use compatibility plan that will provide for the orderly growth of each public airport
22 and the area surrounding the airport within the jurisdiction of the commission, and will
23 safeguard the general welfare of the inhabitants within the vicinity of the airport and the public
24 in general." (Pub. Util. Code § 21675(a).) In addition, airport land use commissions must,
25 among other things, review the plans of local agencies to determine whether those plans are
26 consistent with the county's ALUCP. (Pub. Util. Code § 21674(d).)

27 137. Los Angeles County has adopted a Los Angeles County Airport Land Use
28 Compatibility Plan (ALUCP). LAWA did not ensure that its entire Project including the

1 Specific Plan Amendment was consistent with the ALUCP.

2 138. The Project is inconsistent with the ALUCP because it creates structural
3 incursions into the protected area at the east end of the LAX northern airfield, which is called
4 the Runway Protection Zone (RPZ), and includes areas where there would be large assemblies
5 of persons in the RPZ in violation of ALUCP policies and the California State Aeronautics Act.

6 139. When LAWA applied for a consistency determination from Los Angeles County's
7 Airport Land Use Commission (ALUC), LAWA limited its application to a very small portion
8 of the Project consisting of text amendments to its general plan, rather than evaluating
9 consistency of the entire Project with the Airport Land Use Compatibility Plan including the
10 movement of the northern runway 260 feet to the north. LAWA also did not incorporate
11 previous requirements from ALUC such as prohibiting above ground storage of 10,000 gallons
12 or more of aviation fuel.

13 **FIFTH CAUSE OF ACTION**

14 **(Failure to Respond to Comments)**

15 140. Paragraphs 1 through 139 are incorporated here as if fully set forth herein.

16 141. The lead agency is required to adequately respond to comments submitted during
17 review of the EIR.

18 142. The FEIR failed to adequately respond to comments about numerous impacts,
19 including but not limited to traffic, air quality, regional plan consistency and other impacts.

20 143. The EIR failed to adequately respond to comments requesting air pollution studies
21 to provide a baseline for a projection of the air toxic impacts of the expansion plan.

22 **SIXTH CAUSE OF ACTION**

23 **(Inadequate and Deferred Mitigation Measures)**

24 144. Paragraphs 1 through 143 are incorporated here as if fully set forth herein.

25 145. Mitigation is assumed or stated to be adequate without sufficient assurance of
26 future funding.

27 146. **Noise.** Noise impacts in the area to schools, churches and other noise sensitive
28 facilities that will be more extensively exposed, land uses and housing that are not eligible for

1 insulation due to inconsistent zoning or land use designation would remain significant, even
2 after mitigation. Therefore, adequate mitigation measures to reduce noise impacts to the extent
3 feasible were not provided.

4 147. **Traffic.** LAWA did not propose feasible mitigation measures everywhere that
5 was necessary to mitigate potentially significant impacts. Mitigation measures are provided for
6 only one out of nine significantly impacted intersections in the County.

7 148. **Air pollution.** LAWA's analysis did not account for emissions from reverse
8 thrust engine operations, GSE, and APU emissions. Therefore, LAWA failed to provide
9 mitigation measures for these emissions.

10 149. **Biological Resources.** Although the EIR claims that biological resources impacts
11 would be mitigated by acquisition or creation of wetlands and habitat elsewhere, no enforceable
12 program for requiring such mitigation was developed. Such mitigation measures would not be
13 required for Alternative 2.

14 150. **Cumulative Impacts.** Cumulative impacts from related projects in the areas such
15 as in the Howard Hughes area are not acknowledged or mitigated.

16 SEVENTH CAUSE OF ACTION

17 (Improper Reliance on a Statement of Overriding Considerations.)

18 151. Paragraphs 1 through 150 are incorporated here as if fully set forth herein.

19 152. The California Environmental Quality Act requires public agencies to deny
20 approval of a project with significant adverse effects when feasible alternatives (such as
21 Alternative 2) or feasible mitigation measures can substantially lessen such effects. (Pub.
22 Resources Code § 21002.) CEQA mandates that:

23 Pursuant to the policy stated in Sections 21002 and 21002.1, no public agency
24 shall approve or carry out a project for which an environmental impact report has
25 been certified which identifies one or more significant effects on the environment
26 that would occur if the Project is approved or carried out unless both of the
following occur:

- 27 (a). . . (3) Specific economic, legal, social, technological, or other
28 considerations . . . make infeasible the mitigation measures or
alternatives identified in the environmental impact report.

1 (Pub. Resources Code § 21081.)

2 153. The guidelines that implement CEQA restate this requirement. (Tit. 14 Cal. Code
3 Regs. § 15091 (a)(3).)

4 154. Therefore, LAWA could not legally approve Alternative 1 rather than Alternative
5 2 because the LAWA did not substantiate the findings required by Public Resources Code
6 section 21081 for the lack of a feasible, Environmentally Superior Alternative.

7 155. LAWA's choice of Alternative 1 rather than Alternative 2 creates significant
8 additional impacts that could be avoided or reduced by the choice of Alternative 2. These
9 impacts include impacts on noise, biological resources, air and water pollution, traffic, and
10 aircraft safety hazards. Alternative 2 was thus considered superior to the other alternatives,
11 including Alternative 1, because it would result in fewer construction and operation-related air
12 quality impacts, including greenhouse gas emissions; it would result in no biological resource
13 impacts that would occur in connection with movement of the Argo Drainage Ditch associated
14 with Alternative 1 and others; and it would result in fewer people being exposed to significant
15 noise levels. Alternative 2 would also avoid the potentially significant land use impact of
16 requiring existing structures such as businesses to be removed from the Runway Protection Zone
17 (RPZ) that is associated with Alternative 1. Since Environmentally Superior Alternative 2 is
18 feasible, LAWA could not legally approve Alternative 1 on the basis of a Statement of
19 Overriding Considerations.

20 **PRAYER FOR RELIEF**

21 In each of the respects enumerated above, Respondents have violated their duties under
22 law, abused their discretion, failed to proceed in the manner required by law, and decided the
23 matters complained of without the support of substantial evidence. Accordingly, the
24 certification of the EIR and the approval of the Expansion plan must be set aside.

25 WHEREFORE, Petitioner prays for relief as follows:

- 26 1. For an alternative and peremptory writ of mandate, commanding Respondents:
27 A. To set aside and vacate their certification of the EIR, Findings, and
28 Statement of Overriding Considerations supporting the Project;

1 B. To set aside and vacate all approvals for the Project based upon the EIR and
2 Findings and Statement of Overriding Considerations supporting the
3 Expansion plan; and

4 C. To not proceed with the Project unless it prepares and certifies a legally
5 adequate EIR for the Project so that Respondents will have a complete
6 disclosure document before it, identify for the decision-makers and public
7 the potential significant impacts of the Plan and enable it to formulate
8 realistic and feasible alternatives and mitigation measures to avoid those
9 impacts.

10 2. For a temporary stay, temporary restraining order, and preliminary or permanent
11 injunction or other order enjoining Respondents from taking any action to construct any portion
12 of the Expansion plan or to develop or alter the property that will be involved in the expansion
13 plan in any way that could result in a significant adverse impact on the environment unless and
14 until a lawful approval is obtained from Respondent after the preparation and consideration of
15 an adequate EIR;

16 3. For costs of the suit;

17 4. For reasonable attorneys' fees pursuant to Code of Civil Procedure section 1021.5;
18 and

19 5. For such other and further relief as the Court deems just and proper.

20 DATED: May 29, 2013

21 Respectfully Submitted,
22 CHATTEN-BROWN & CARSTENS

23 By: *Douglas P. Carstens*

24 Douglas Carstens
25 Attorneys for Petitioner
26
27
28

Verification

I, the undersigned, declare that I am the President of the Alliance for a Regional Solution to Airport Congestion, Petitioner in this action. I have read the foregoing PETITION FOR WRIT OF MANDATE and know the contents thereof, and the same is true of my own knowledge.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 29th day of May, 2013, in Los Angeles, California.



Denny Schneider