

1 Leon J. Page, County Counsel (Bar No. 208587)  
Paul M. Albarian, Deputy County Counsel (Bar No. 232833)

2 [palbarian@ocair.com](mailto:palbarian@ocair.com)

3 County of Orange  
P.O. Box 1379  
Santa Ana, CA 92702-1379  
4 Telephone: (949) 252-5280  
5 Facsimile: (949) 252-5044

6 Attorneys for County of Orange  
(See next page for additional counsel)

7 **UNITED STATES DISTRICT COURT**  
8 **CENTRAL DISTRICT OF CALIFORNIA**

9 COUNTY OF ORANGE, ) Case No. CV 85-1542 TJH (MCx)  
Plaintiffs, )

10 v. )

AIR CALIFORNIA, et al. ) **TENTH SUPPLEMENTAL**  
Respondents. ) **STIPULATION BY THE COUNTY OF**

11 CITY OF NEWPORT BEACH, ) **ORANGE, CALIFORNIA, THE CITY**  
Counterclaimant, ) **OF NEWPORT BEACH, STOP**

12 v. ) **POLLUTING OUR NEWPORT, AND**

13 COUNTY OF ORANGE; ORANGE ) **THE AIRPORT WORKING GROUP**  
COUNTY BOARD OF SUPERVISORS, ) **OF ORANGE COUNTY, INC.,**  
14 and DOES 1 through 1,000, Inclusive, ) **AMENDING THE TERMS AND**  
Counterdefendants. ) **CONDITIONS OF THE PREVIOUS**

15 ) **STIPULATIONS OF THOSE PARTIES**  
AND REQUESTING A ) **MODIFICATION OF AN**  
16 ) **EXECUTORY JUDGMENT OF THE**  
17 ) **COURT**

18 ) **AND**

19 ) **[PROPOSED] ORDER**

20 AND RELATED COUNTERCLAIMS. )  
21 )

1 Lori D. Ballance (Bar No. 133469)  
[lballance@gdandb.com](mailto:lballance@gdandb.com)

2 Gatzke Dillon & Ballance LLP  
2762 Gateway Road  
3 Carlsbad, California 92009  
Telephone: (760) 431-9501  
4 Facsimile: (760) 431-9512

5 Attorneys for County of Orange

6 Aaron C. Harp (Bar No. 190665)  
[aharp@newportbeachca.gov](mailto:aharp@newportbeachca.gov)

7 City Attorney  
100 Civic Center Drive  
8 Newport Beach, California 92660  
Telephone: (949) 644-3131  
9 Facsimile: (949) 644-3139

10 Attorneys for City of Newport Beach

11 Barbara Lichman (Bar No. 138469)  
[blichman@buchalter.com](mailto:blichman@buchalter.com)

12 Buchalter Nemer  
18400 Von Karman Avenue, Suite 800  
Irvine, California 92612  
13 Telephone: (949) 224-6292  
14 Facsimile: (949) 720-0182

15 Attorneys for Airport Working Group of Orange County, Inc. (AWG)

16 Steven M. Taber (Bar No. 250205)  
[staber@taberlaw.com](mailto:staber@taberlaw.com)

17 Taber Law Group PC  
P.O. Box 60036  
Irvine, California 92602  
18 Telephone: (949) 735-8217  
19 Facsimile: (714) 707-4282

20 Attorneys for Stop Polluting Our Newport (SPON)

1 The County of Orange, California (“the County”), which is the certificated proprietor of  
2 John Wayne Airport, Orange County (SNA) (“JWA”), the City of Newport Beach,  
3 California (“the City”), Stop Polluting Our Newport (“SPON”), and the Airport  
4 Working Group of Orange County, Inc. (“AWG”), by their respective counsel, enter  
5 into the following stipulation:

6 **RECITALS**

7 1. On December 15, 1985, this United States District Court entered a final  
8 judgment (“the confirming judgment”) in this action as between the County, the City,  
9 SPON, and AWG (collectively, “the settling parties”) based upon a stipulation executed  
10 by their respective counsel and submitted to the Court in November 1985 (“the 1985  
11 Stipulation”).

12 2. In addition to the settling parties, the Federal Aviation Administration  
13 (“FAA”), and various other parties, including various certificated commercial airlines,  
14 were also parties to this action. By a series of stipulations and a confirming order of  
15 this Court entered in 1986, the remaining claims and issues in the action were  
16 dismissed, without prejudice.

17 3. The 1985 Stipulation and the confirming judgment (which incorporated  
18 the terms of the 1985 Stipulation) contain certain provisions that are executory and  
19 binding upon, among others, the County, from the date of the Court's entry of the  
20 confirming judgment through the original term of the settlement stipulation that  
21 required it to remain in effect through December 31, 2005.

1           4.     The term of the original settlement stipulation has been extended by the  
2 settlement parties and modified by Court Order and Judgment. The term of the current  
3 settlement stipulation requires the stipulation to remain in effect through December 31,  
4 2030.

5           5.     In 1997, a new noise monitoring system was installed at JWA to replace  
6 the noise monitoring system that was originally installed at JWA in 1979. Based on the  
7 results of a side-by-side comparison of noise levels as recorded by the new system and  
8 the system installed at JWA in 1979 and recommendations from the County's noise  
9 consultant, amendments were made to the 1985 Settlement Agreement in 1999  
10 regarding permitted noise levels for regularly scheduled commercial operations.  
11 Corresponding amendments were also made to the maximum permitted noise levels in  
12 the Phase 2 Access Plan and the County's General Aviation Noise Ordinances  
13 ("GANO"). The objective of the modifications to the maximum permitted noise levels  
14 was to maintain parity with the existing noise compliance limits and to preserve  
15 operational capacity at JWA as agreed to by the settling parties in the 1985 Stipulation,  
16 as amended.

17 **ADJUSTMENTS TO MAXIMUM PERMITTED NOISE LEVELS**

18           6.     In early 2015, a new noise monitoring system was installed at JWA to  
19 replace the current noise monitoring system that was originally installed at JWA in  
20 1997. A side-by-side comparison of the noise levels recorded by the new system and  
21 the current system was conducted commencing March 1 through May 31, 2015. Based

1 on the results and the data collected through May 31, 2015, and recommendations from  
2 the County's noise consultant, the parties wish to once again make appropriate  
3 technical adjustments to the maximum permitted noise levels as presently defined in the  
4 amended Phase 2 Access Plan, effective October 1, 2015. The objective of these  
5 modifications is to maintain parity with the existing noise compliance limits, to  
6 preserve operational capacity of JWA as agreed to by the settling parties in the 1985  
7 Stipulation (as amended) and to maintain the County's grandfathered status of its noise  
8 and access restrictions under the Airport Noise and Capacity Act of 1990, commonly  
9 known as ANCA. The proposed technical adjustments do not result in an increase in  
10 actual noise levels at JWA beyond that contemplated by the parties at the time of  
11 execution of the 1985 Stipulation and any amendments to the 1985 Stipulation.

12       7. Based upon an analysis of the side-by-side noise data, the maximum  
13 permitted noise levels would have to be modified for Class A and Class E Aircraft at  
14 noise monitoring stations ("NMS") 1S, 2S, 3S, 4S, 5S, 6S, and 7S. The existing  
15 sections of the Phase 2 Access Plan which regulate noise levels for scheduled  
16 commercial operations are Sections 2.11 (Class A Aircraft) and 2.12 (Class E Aircraft).  
17 Those sections of the Phase 2 Access Plan are set forth in Appendix A to this  
18 Stipulation, which is incorporated by this reference and made an express part of this  
19 document.

20       8. The parties have agreed to allow the County to amend the relevant sections  
21 of the Phase 2 Access Plan (those sections quoted above) to modify the maximum

1 permitted noise levels for regularly scheduled commercial airline operations at JWA as  
2 follows, effective October 1, 2015:

3 *Class A Aircraft*

4 To maintain parity with the existing noise compliance limits and to preserve  
5 existing operational capacity and ANCA grandfathered status at JWA, the maximum  
6 permitted noise levels, as measured at the Departure Monitoring Stations, must be  
7 modified from 101.8 to 102.5 dB SENEL at NMS 1S, from 101.1 to 101.8 dB SENEL  
8 at NMS 2S, from 100.7 to 101.1 dB SENEL at NMS 3S, from 94.1 to 94.8 dB SENEL  
9 at NMS 4S, from 94.6 to 95.3 SENEL at NMS 5S, from 96.1 to 96.8 dB SENEL at  
10 NMS 6S, and from 93.0 to 93.7 dB SENEL at NMS 7S.

11 *Class E Aircraft*

12 In order to maintain parity with the existing noise compliance limits and to  
13 preserve existing operational capacity and ANCA grandfathered status at JWA, the  
14 maximum permitted noise levels must be modified from 93.5 to 94.1 dB SENEL at  
15 NMS 1S, from 93.0 to 93.5 dB SENEL at NMS 2S, from 89.7 to 90.3 dB SENEL at  
16 NMS 3S, from 86.0 to 86.6 dB SENEL at NMS 4S, from 86.6 to 87.2 dB SENEL at  
17 NMS 5S, from 86.6 to 87.2 at NMS 6S and from 86.0 to 86.6 at NMS 7S.

1 **IN LIGHT OF THESE CIRCUMSTANCES AND RECITALS, THE PARTIES**  
2 **TO THIS STIPULATION AGREE AS FOLLOWS:**

3 **AGREEMENT**

4 Subject to the approval of the Court:

5 10. The noise level limitations and aircraft noise class definitions of the 1985  
6 Stipulation, the confirming judgment, and the Phase 2 Access Plan, as modified by  
7 subsequent amendments, shall be further modified as set forth in “Appendix A” to this  
8 stipulation which is incorporated by this reference and made an express part of this  
9 document, effective October 1, 2015.

10 11. This agreement is subject to the following limitations: (a) provisions of the  
11 1985 Stipulation and the confirming judgment, as amended, other than those provisions  
12 directly related to the permitted noise levels for regularly scheduled commercial airline  
13 operations at JWA shall continue to remain in effect and enforceable by the stipulating  
14 parties; and (b) nothing in this stipulation obligates any of the settling parties to enter  
15 into or agree to any further stipulations modifying the 1985 Stipulation, or the  
16 confirming judgment.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

Attorneys for Plaintiff and Counterdefendants, the  
County of Orange and the Orange County Board of  
Supervisors

Leon J. Page  
County Counsel, County of Orange

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Paul M. Albarian  
Deputy County Counsel

Lori D. Ballance  
Danielle K. Morone

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Lori D. Ballance  
Attorneys for Defendant, Counterclaimant and  
Crossdefendant, the City of Newport Beach

Aaron C. Harp  
City Attorney of Newport Beach

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Aaron C. Harp

Attorneys for Defendant, Counterclaimant and  
Crossdefendant, Stop Polluting Our Newport  
(SPON)

Dated: \_\_\_\_\_

Steven M. Taber  
By: \_\_\_\_\_  
Steven M. Taber



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

Attorneys for Defendant, Counterclaimant and  
Crossdefendant, Airport Working Group (AWG)

Dated: \_\_\_\_\_

Barbara E. Lichman

By: \_\_\_\_\_

Barbara E. Lichman

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

**ORDER**

By the stipulation of parties, IT IS SO ORDERED.

Dated: \_\_\_\_\_

By: \_\_\_\_\_

The Honorable Terry J. Hatter, Jr.  
United States District Judge

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

**CERTIFICATE OF SERVICE**

The undersigned, counsel for COUNTY OF ORANGE, hereby certifies that a true and correct copy of the attached document was made available for viewing and downloading through the CM-ECF (Electronic Case Filing) system to all counsel of record who are registered to receive a Notice of Electronic Filing for this case.

Executed on September \_\_, 2015

\_\_\_\_\_

Lori D. Ballance