

July 2016 Update- All things Aviation:



If you'd like additional information, please contact Newport Beach City Manager Dave Kiff at dkiff@newportbeachca.gov.

JWA-May 2016

Airline passenger traffic at John Wayne Airport increased in May 2016 as compared with May 2015 by 13.0%. Meanwhile the ADDs for May 2016 were 130.77 versus 111.42 for May 2015. International ADDs for the month of May were 6.13 versus 3.98 ADDs for May 2015. The top three airlines in May 2016 based on passenger count were Southwest Airlines (447,417), American Airlines (141,793) and United Airlines (117,348).

The Curfew

Some of you have recently asked about the curfew at JWA. Accordingly, here is a brief overview of the Curfew.

In 1985, the City, County, SPON, and AWG entered into a stipulation and agreement (1985 Settlement Agreement) to resolve Federal Court litigation initiated by the County seeking judicial approval of the Master Plan. The 1985 Settlement Agreement required among other things, that the County maintain the curfew then in effect at JWA and enforce the County's General Aviation Noise Ordinance (GANO).

Five years later, in 1990, Congress adopted ANCA which, in relevant part, requires FAA "review and approval of proposed noise or access restrictions" on Stage 3 aircraft. The City and County successfully lobbied Congress to "grandfather" in (exempt from the FAA "review and approval" requirements of ANCA):

- a) The 1985 Settlement Agreement;
- b) Amendments to the 1985 Settlement Agreement that do not adversely impact airport capacity or airport safety; and
- c) The then-current County noise "curfew" ordinance (GANO).

The 2002 and the more recent 2014 Amendments to the JWA Settlement Agreement allowed the County to offer additional air transportation service without any significant increase in noise impacts on Newport Beach residents. The current flight and service level restrictions remain in effect through December 31, 2030 and provisions related to the curfew remain in effect through December 31, 2035.

The GANO also implements curfews and scheduled departure time prohibitions for commercial operations. GANO states:

Departures. No commercial aircraft may engage in regularly scheduled commercial operations at SNA between the hours of 10:00 p.m. and 7:00 a.m. (8:00 a.m. on Sundays). Further, Commercial airlines are prohibited to *schedule* departure times for any flight originating at SNA prior to 6:45 a.m. or after 9:45 p.m. Monday through Saturday; or before 7:45 a.m. or after 9:45 p.m. on Sunday.

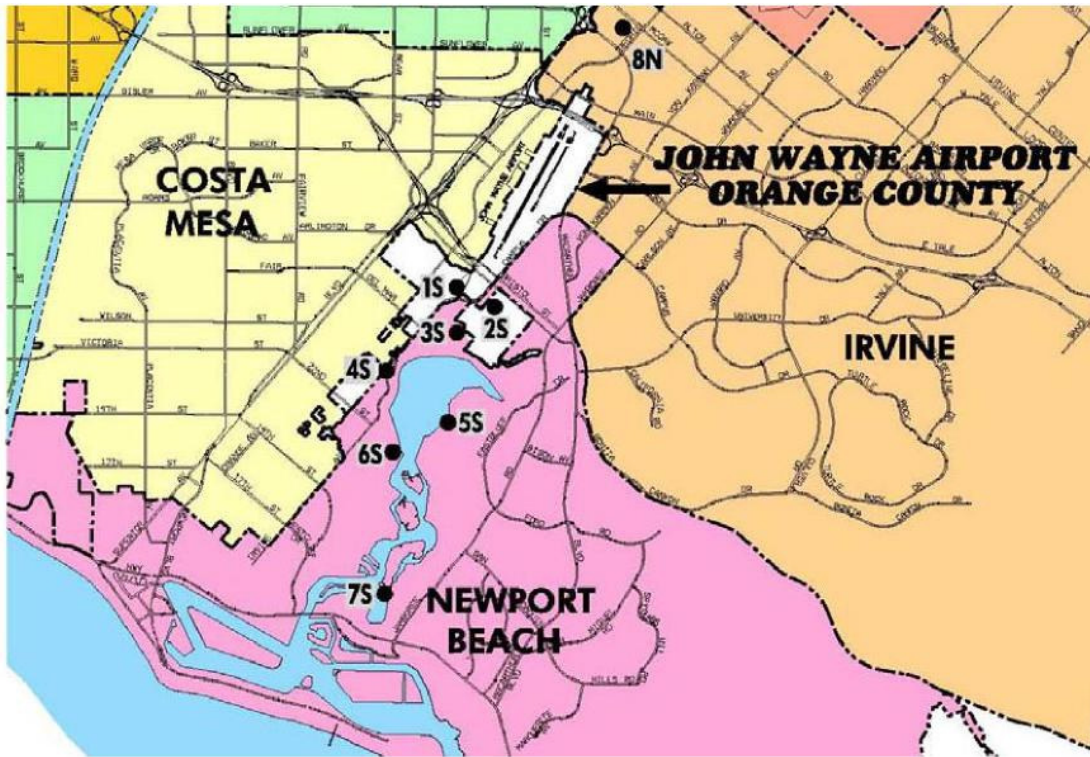
Arrivals. No commercial aircraft may engage in regularly scheduled commercial operations at SNA between the hours of 11:00 p.m. and 7:00 a.m. (8:00 a.m. on Sundays).

The GANO establishes curfews for GA operations as it does for commercial operations. The ordinance states that no GA aircraft may engage in nighttime operations that exceed the SENEL values specified in the table below at any of the ten respective noise monitoring stations. Nighttime operations, for the purposes of this section of the GANO, are considered to be between the hours of 10:00 p.m. and 7:00 a.m. (8:00 a.m. on Sundays) for departures and between the hours of 11:00 p.m. and 7:00 a.m. (8:00 a.m. on Sundays) for arrivals.

Table of Maximum SENEL Values - Nighttime GA

Operations Noise Monitoring Station Max. SENEL Value

NMS 1S 87.5 dB -- Golf Course, 3100 Irvine Avenue, Newport Beach
NMS 2S 87.6 dB -- 20152 Birch Street, Newport Beach
NMS 3S 86.7 dB -- 2139 Anniversary Lane, Newport Beach
NMS 4S 86.7 dB -- 2338 Tustin Avenue, Newport Beach
NMS 5S 86.7 dB -- 324 1/2 Vista Madera, Newport Beach
NMS 6S 86.7 dB -- 1912 Santiago, Newport Beach
NMS 7S 86.7 dB -- 1311 Back Bay Drive, Newport Beach
NMS 8N 86.9 dB -- 17372 Eastman Street, Irvine
NMS 9N 86.9 dB -- 1300 S Grand Avenue, Santa Ana
NMS 10N 86.9 dB -- 17952 Beneta Way, Tustin



However, some in the community have asked about departures they have heard at night, and whether or not they violated the curfew. Initially it is much easier for General Aviation to meet the noise standards as established by the above table, as opposed to the Commercial Carriers and so, while there may be violations, for the most part the General Aviation plane which you may have heard depart after 10:00 PM have not exceeded the noise limits established by the GANO.

But, some of you may say, that you checked and the plane you heard depart from JWA after 10:00 PM was a Commercial Carrier and I know they exceeded the established noise limits. Why is this possible? Compliance with the GANO is mandatory unless deviations are made necessary by mechanical problems, weather, air traffic control delays, a medical or in-flight emergency, or other safety considerations. Some of you may have been on a plane which was either traveling to JWA which was denied arrival or departure as a result of the hour of the arrival or departure.

If an aircraft exceeds the GANO noise limits at one or more locations, a "Notice of Violation" will be issued to the registered owner of the aircraft. The

Notice of Violation applies to the aircraft owner, the aircraft operator, and the aircraft. Notices of Violation remain in effect for three years after the violation date. If three GANO violations occur within a three-year period, the aircraft owner, the aircraft operator and the aircraft are subject to denial of use of the Airport for a period of three years.

The Airport publishes a monthly Commercial Curfew Operations report, which you may access on the Airport's website.

Access Plan and Settlement Agreement Potential Amendments

As reported previously, there was the possibility of potential amendments to the Airport Access Plan and the JWA Settlement Agreement. The latest information is that the Airport is further evaluating whether or not to initiate amendments to the Access Plan¹ and Settlement Agreement.

ANCA

Many of you have heard the term ANCA, which stands for the Airport Noise and Capacity Act, thrown around; therefore it is important to revisit this term and why it plays such an important role surrounding JWA. Moreover many in the community have arrived at what many believe to be a logical solution to noise or altitudes or operations at JWA and thereby solve the problems of noise and the environment. Unfortunately the proposals run directly into the face of ANCA.

In 1990, Congress adopted the Airport Noise and Capacity Act (ANCA) which, in relevant part, requires FAA "review and approval of proposed noise or access restrictions" on Stage 3 aircraft. Many believe that ANCA was passed to do away with the type of restrictions contained in the JWA Settlement Agreement. Generally, airlines historically have opposed virtually all environmental constraints on their ability to fly their planes where and when they want to fly them. They often seem to view the public ownership of both airspace and airports as irrelevant, inconvenient, or both. Accordingly

¹ John Wayne Airport has one of the most stringent aircraft access and noise monitoring programs in the United States and the world. Commercial Air Carrier operations at John Wayne Airport are regulated by the Phase 2 Commercial Airline Access Plan and Regulation (Access Plan). The Access Plan places restrictions on operational capacity, hours of operations, and noise levels.

ANCA is significant because it shifts authority for noise abatement away from local governments and airport proprietors and grants the Federal Aviation Administration (FAA) authority on all noise restrictions on aircraft.

However, the City and County successfully lobbied Congress to "grandfather" (exempt from the FAA "review and approval" requirements of ANCA). *Most importantly, ANCA, while grandfathering in the restrictions of the JWA Settlement Agreement, specifically set forth that further amendments to any restriction in effect as of November 5, 1990 must not further reduce or limit aircraft operations or affect aircraft safety.(emphasis added).*²

The foregoing is the reason that the City, County, AWG and SPON, the signators to the JWA Settlement Agreement must be extremely careful regarding any proposed changes that in anyway have the potential to reduce or limit operations of the airlines.

Health Assessment Update

For those who missed the July Aviation Committee Meeting, Ms. Carol Jacobs, from the City gave a brief update regarding the Health Assessment Study being undertaken by the City as it concerns JWA. Ms. Jacobs advised those present that the City is currently working with Professor Jun Wu of the University of California Irvine on the project. It is interesting to note that on the same day this matter was discussed at the Aviation Committee, the U.S. Environmental Protection Agency (EPA) finalized a determination under the Clean Air Act that greenhouse gas (GHG) emissions from certain types of aircraft engines contribute to the pollution that causes climate change and endangers Americans' health and the environment.

² Remember that the Airport's Access Plan places restrictions on operational capacity, hours of operations, and noise levels.

Massachusetts Lawmakers Express Concerns Over Air Traffic

Massachusetts lawmakers are asking the National Academy of Sciences to conduct a study on the health effects of air traffic noise and pollution, after thousands of Bay Staters complained about planes heading in and out of Logan Airport last year. In a letter to the prestigious research organization, Sens. Elizabeth Warren and Ed Markey and Reps. Stephen Lynch, Michael Capuano, and Katherine Clark asked why airplane noise complaints have dramatically increased in recent years, and how it could be affecting local health.

In April of this year, Senator Warren also introduced legislation in the Senate requiring the Federal Aviation Administration to listen to communities affected by flight paths and potentially reconsider existing routes that expose residents to “unacceptable levels of noise.” The foregoing actions appear to be as a result of new flight paths created by the FAA which were designed to be safer and more fuel efficient, but have resulted in concentrated noise for those living below the new, narrower corridors. The City is currently reviewing the foregoing actions and considering further the approach led by US Senator Elizabeth Warren.

Airports in the Region

LAX and ONT

LAX passenger figures for June 2016 showed an overall increase by +10.3% and +7.95% for the first half of the year of the year versus the same time periods last year for both domestic and international passengers. Meanwhile ONT showed a decrease of -2.8% for June but still remains ahead of 2015 by +.38%. LAX MAP through June was 38.6 MAP, while ONT MAP was 2.05 MAP.

Long Beach-Southwest Takes Flight

As reported in June, Southwest Airlines launched its airline service from Long Beach Airport during the month of June; as a result Long Beach showed an increase of total passenger traffic, both arrivals and departures, for June of +7.4% and is +3.2% ahead of 2015 for the first six months of 2016. While overall load factors at the airport remain high at 86%, Southwest which just began service had but a 70% load factor. It can reasonably be expected that the percentage will increase over the course of 2016.

In addition, on July 19, Southwest announced that it will add an additional route to Las Vegas from Long Beach. Currently it has four (4) daily flights to Oakland from Long Beach. Southwest plans to fly three round-trip flights each day to Las Vegas except Saturday, when it will offer two.

Ontario Control Getting Closer

San Bernardino County and the city of Ontario could reclaim control of Ontario International Airport under legislation that passed the House by a voice vote on June 28, 2016. The legislation, H.R. 4369, allows some of the \$2-per-passenger facility charge collected at the Ontario airport to be used at Los Angeles International Airport. A condition of the Los Angeles World Airports' agreement to transfer Ontario International Airport to San Bernardino County and the city of Ontario last August was that the Ontario airport would reimburse LAX for millions in fees used to pay for new terminals in the 1990s. When both airports were owned by Los Angeles World Airports, the fees could be used that way. The settlement agreement calls for \$120 million in passenger facility charges collected at Ontario to go to LAX over the next 10 years. However, that isn't allowed under current law. The bill is just another step for the Inland Empire as it faces the substantial challenge of reviving the struggling facility that has lost more than a third of its passengers since 2007.