

ATTACHMENT F

DECISION AND EXPLANATION REGARDING RECIRCULATION OF THE DRAFT PROGRAM ENVIRONMENTAL IMPACT REPORT

**FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT
AND SUPPORTING DOCUMENTATION
SCH # 2016021105**

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EXPLANATION OF THE DECISION REGARDING RECIRCULATION OF THE DRAFT PROGRAM ENVIRONMENTAL IMPACT REPORT

McClellan-Palomar Airport Master Plan Update Carlsbad, California SCH # 2016021105

Pursuant to California Environmental Quality Act (CEQA) Guidelines, Section 15088.5(a), the County of San Diego is required to recirculate a draft environmental impact report (EIR) when significant new information is added to the draft EIR after public review of the draft EIR, but before certification. Significant new information can include changes in the project or environmental setting, as well as additional data or other information. New information added to a draft EIR is not significant unless the draft EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse effect of the project or a feasible way to mitigate or avoid such an effect (including feasible alternatives) that the project's proponents have declined to implement.

BACKGROUND:

Prior Public Review

The County of San Diego (County) initially released the McClellan-Palomar Airport Master Plan Update and Draft Program Environmental Impact Report (Draft PEIR) for a 61-day public review period from January 18 to March 19, 2018. During this initial public review period, the County received 100 comment letters, some of which contained requests that additional information be included in the Draft PEIR. In response to comments received from the circulation of the Draft PEIR, revisions were made to the Biological Resources and Greenhouse Gas Emission analyses, and a new Energy Conservation section was added. In addition, clarifications have been made to figures and text regarding the placement and location of Runway Protection Zones (RPZs).

Due to the revisions noted above, it was determined that portions of the Draft PEIR were required to be recirculated to ensure that the public has a meaningful opportunity to comment on the changes to the Revised Draft PEIR in accordance with CEQA Guidelines Section 15088.5. Specifically, an additional analysis of potential impacts to biological resources was included to address the conceptual placement and alignment of the navigational aid lighting system. Section 2.2 Biological Resources of the Draft PEIR has been revised to include a discussion of the new significant impacts BI-7 and BI-8, and associate mitigation measures M-BI-7 and M-BI-8. Due to a change in the regulatory framework regarding the emissions reduction targets of the California Air Resources Board Scoping Plan and the adoption of the Climate Action Plan by the Board of Supervisors, Section 3.1.5 Greenhouse Gas Emissions was revised and recirculated. Section 3.1.10 Energy Use and Conservation also included an analysis in the context of the regulatory framework. Lastly, revisions to Runway Protection Zone exhibits were made to provide additional clarification.

On June 21, 2018, the County released portions of a Revised Draft PEIR for a second public review period that ended on August 6, 2018. During this public review period, the County received 38 comment letters.

Responses to all comments received during the public review periods were prepared and are included in the Final PEIR.

Proposed Action

On October 10, 2018, the County of San Diego Board of Supervisors certified the PEIR for the McClellan-Palomar Airport Master Plan Update. On November 6, 2018, Citizens for a Friendly Airport filed a petition for Writ of Mandate and complaint challenging the Board's decision, alleging there were deficiencies in the PEIR. On January 26, 2021, the San Diego Superior Court issued a ruling indicating that the PEIR used an appropriate threshold of significance for noise and adequately analyzed potential noise from commercial and non-commercial aircraft operations. While the Superior Court determined the noise analysis completed for the PEIR was generally adequate, the Court found the PEIR should have included supplemental noise analysis for areas further away from McClellan-Palomar Airport, specifically for areas where residents had reported noise concerns outside of the 65 decibel (dB) contour during the public comment periods. Subsequently, on March 4, 2021, the Superior Court filed a Writ of Mandate ordering the County to set aside all approvals associated with the October 10, 2018 approval of the Master Plan Update and PEIR within 60 days. This judgment was not appealed by any party to the litigation and has become final. As a result, the Board of Supervisors decertified the PEIR on May 5, 2021.

To address the Court's ruling on the PEIR's noise analysis, the County conducted supplemental noise analysis. Specifically, the County reviewed all public comments received during three separate review periods: (1) Notice of Preparation/Initial Study [published February 29, 2016]; (2) Draft PEIR [published January 18, 2018]; and (3) recirculated portions of the Draft PEIR [published June 21, 2018]. Public comments that expressed aircraft-related noise concerns with an included address or nearby landmark (such as a park or an intersection) sufficient to identify a location were included within the supplemental noise analysis (PEIR Appendix D). The supplemental analysis concluded that no aircraft-related significant noise impacts would occur in areas affected by the Proposed Project (i.e., Master Plan Update) as a result of the Proposed Project in light of public comments. Accordingly, aircraft-related noise impacts would be less than significant, and no mitigation would be required.

DECISION: No "significant new information" has been added to the ~~Final~~ PEIR since public notices were given of the availability of the Draft PEIR (in January 2018) and revised portions (in June 2018) for public review. In addition, the supplemental noise analysis described above merely provides additional data, which supports the conclusions previously reached in the PEIR, and, therefore, recirculation of the Draft PEIR or the revised portions is not required as explained further below.

EXPLANATION: The County provides the following explanation of the decision regarding no recirculation:

CEQA Guidelines Section 15088.5 states that new information added to a Draft EIR is not significant unless the Draft EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. "Significant new information" requiring recirculation includes, for example, a disclosure showing that:

- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.

- (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
- (3) A feasible project alternative or mitigation measure considerably different from the others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it.
- (4) The Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

Recirculation is not required where the new information added to the Draft PEIR merely clarifies or amplifies or makes insignificant modifications to an adequate EIR. A number of changes have been made to the EIR for clarification or amplification purposes, but none of the changes result in the identification of a new significant impact or a substantial increase in the severity of an impact.

Accordingly, the supplemental noise analysis is not considered "significant new information" for the following reasons:

- (1) A new significant environmental impact would not result from the project.
- (2) A substantial increase in the severity of an environmental impact would not result.
- (3) The PEIR concludes that aircraft-related noise would result in less than significant impacts; therefore, consideration of project alternatives or mitigation measures is not required.
- (4) The supplemental noise analysis provides additional data, which supports the conclusions previously reached in the PEIR. Therefore, inclusion of additional data did not preclude or deprive the public of a meaningful opportunity to comment during prior review periods. Furthermore, the supplemental analysis was completed in direct response to previous public comments.

No Changes to Project and Environmental Setting Since Circulation of Draft PEIR

The project and the methods described for its implementation have not substantially changed from the descriptions provided within the published Draft PEIR or its revised portions, and no new information of significance has become available that was not known and could not have been known at the time the Draft PEIR or its revised portions were circulated. Moreover, the circumstances under which the project would be undertaken have not changed substantially since the Draft PEIR or its revised portions were circulated to agencies, organizations, and the general public.

Conclusion

While several commenters previously requested recirculation of the Draft PEIR during prior public review periods, no significant new information has been added to the Draft PEIR or its revised portions.

Pursuant to CEQA, recirculation of a draft EIR is warranted only when significant new information is added. New information added to an EIR is not significant unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. No new significant impacts would result from the changes, and no mitigation measures were added as a result of the changes

to the document. Therefore, the public was not deprived of an opportunity to comment on a new significant adverse effect or feasible way to mitigate such an effect that the project proponent declines to implement. For these reasons, recirculation of the Draft PEIR or its revised portions is not required.