

March 8, 2013

VIA E-MAIL (SPASEIRCOMMENTS@LAWA.ORG; DALVAREZ@LAWA.ORG)

Los Angeles World Airports
Facilities Planning Division
Attn: Diego Alvarez
1 World Way
Los Angeles, CA 90045-5803

Re: Final Environmental Impact Report for the Los Angeles International Airport
Specific Plan Amendment Study - Comments of City of Inglewood, City of
Culver City, City of Ontario and County of San Bernardino

Dear Mr. Alvarez:

The following constitutes the comments of the City of Inglewood, City of Culver City, City of Ontario and County of San Bernardino (collectively "Cities/County") concerning the "LAX Specific Plan Amendment Study Final EIR" ("FEIR"), purporting to document the environmental impacts of the choice of Alternative 1 from the Draft Environmental Impact Report ("DEIR"), calling for various airfield and groundside changes to the Central Terminal Area, including, but not limited to, the movement of Runway 6L/24R 260 feet to the north ("Project").

At the outset, Cities/County wish to point out that the array of impacts resulting from implementation of the Project, and reported in the FEIR are real, not theoretical. In Inglewood alone, almost 12,000 citizens, 4,600 housing units, 400 acres of land, 15 schools and 21 churches will be newly and significantly impacted by the expanded 65 CNEL noise contour, and/or a 1.5 dB increase in noise within the existing 65 dB CNEL significant noise contour. FEIR, Tables 2.3.9-2, p. 2-147; 2.3.9-3, p. 2-148. Culver City too will suffer from a certain increase in overflights resulting from the projected increase of almost 500 average daily jet operations in 2025, of which 200 will be "heavy," and, thus, certainly, noisier. FEIR, § 2.3.10, Table SRA-2.3.10.1-1, pp. 2-150-151. Despite that enormous increase in noise impacts (falsely minimized by the seemingly small shifts in the size and location of the contours in the FEIR's graphics, *e.g.*, Figures SRA-2.3.9-1, SRA-2.3.10.1-2, and other soothing reassurances in the text of the FEIR), "[b]ecause the land use mitigation measures would take several years to fully implement, it is possible that significant noise impacts would be experienced in the area after implementation of the LAWA Staff-Recommended Alternative but before the mitigation measures are fully

implemented. Thus, significant and unavoidable interim noise impacts would be experienced over an indeterminate period of time." FEIR, § 2.3.10.1.3, p. 2-167.

In addition, communities to the east of the airport, including Culver City, will be subjected to inadequately analyzed air emissions impacts from aircraft operations, construction, and vehicle emissions, the last of which are exacerbated by similarly incomplete analyses of the Project's surface traffic impacts. For all these reasons, as well as those set forth below, the FEIR, like the DEIR before it, provides an incomplete, although already bleak, picture of the Project's potential impacts, leaving the affected communities to guess at their full scope, and rendering the FEIR, like the DEIR before it, inadequate.

I. THE COMMITMENT PROVIDED IN THE FEIR IS INADEQUATE TO MITIGATE THE PROJECT'S EXTREME NOISE IMPACTS

The extreme scope and significance of the Project's noise impacts on surrounding communities could theoretically be mitigated by a massive commitment to an Airport Noise Mitigation Program ("ANMP"), providing sound insulation for all residences significantly impacted by noise from the Project. In this case, however, that commitment is vitiated by: (1) the apparently "indeterminate" period before implementation of mitigation; and (2) the Federal Aviation Administration's ("FAA") Program Guidance Letter 12/09, purporting to amend FAA Order 5100.38C, which has drastically changed the way in which eligibility for sound insulation is calculated.

First, while the FEIR appears to set forth tangible conditions for implementation of mitigation measure MM-LU-1, Implement Revised Aircraft Noise Mitigation Program, and provides that "LAX Master Plan Mitigation Measure MM-LU-1 . . . would incorporate all eligible dwellings and non-residential noise-sensitive facilities that are newly exposed to noise levels 65 CNEL or higher into the Aircraft Noise Mitigation Program (ANMP) to mitigate the significant noise impact described in Table SRA-2.3.10.1-9," FEIR, § 2.3.10.1.3, p. 2-166, it also maintains that, despite these "revised" measures, "significant and unavoidable interim noise impacts would be experienced over an indeterminate period of time," FEIR, § 2.3.10.1.3, p. 2-167. CEQA, however, mandates that, to be "feasible," a mitigation measure must be "capable of being accomplished in a successful manner within a reasonable period of time." Cal. Pub. Res. Code § 21061.1 [emphasis added]. While the formulation of the ANMP as a mitigation measure does not appear to have been improperly deferred, the unspecified period for its implementation does not satisfy CEQA's requirement that the lead agency have "committed itself to a specific performance standard," *Gray v. County of Madera*, 167 Cal.App.4th 1099, 1119 (2008).

LAWA argues that "the performance standard for this noise insulation measure is 45 CNEL; therefore, any homes that have achieved this interior noise level are considered less than significant under CEQA." Response to Comment SPAS-AL00007-30, p. 4-195. The 45 dB level is not, however, a "specific performance standard," or specific means for achieving a certain noise level, analogous to the creation of a specific water supply mechanism in *Gray*,

supra, at 1119, but rather “a specific mitigation goal,” *Id.*, analogous to the “replacement of water lost by neighboring landowners.” *Id.*

Moreover, Program Guidance Letter 12-09 specifies a somewhat different standard. It requires that, to be eligible for noise insulation, the impacted structure must be below “an average of 45 dB interior noise across all habitable rooms,” [emphasis added]. The FEIR, however, is unclear as to the standard that LAWA plans to apply in measuring achievement with the average 45 dB standard – (1) below 45 dB in any given room, or (2) on the basis of an average across the entire dwelling. And if the latter, the FEIR fails to specify: (1) the way in which such an average will be calculated, *i.e.*, by square footage, number of rooms, or other standards; and (2) how varying noise levels throughout the day will affect that average.

Given the 12,000 residents of Inglewood alone who will be immediately, significantly and adversely impacted by noise from the Project, not to mention the thousands of additional residents within the jurisdictions of other surrounding communities, the mitigation goal of 45 dB average internal noise proposed to be accomplished at some unspecified time in the distant future cannot be considered either feasible, or sufficiently specific in the establishment of a performance standard to withstand judicial scrutiny.

II. THE FEIR FAILS TO REMEDY THE INADEQUACIES IN THE DEIR’S AIR QUALITY ANALYSIS

Although discussed exhaustively in Cities/County’s comments on the DEIR, the FEIR still fails to address salient issues brought up in those comments.

A. The FEIR Still Fails to Account for the Impacts of Reverse Thrust Emissions

In comment SPAS-AL00007-13, Cities/County observe that reverse thrust emissions continue to be excluded from LAX emissions analysis. In response, LAWA quotes from the FAA’s Emissions and Dispersion Modeling System (“EDMS”) (FAA’s aircraft emissions estimation model) User’s Manual, which states that aircraft activity estimation during taxi-in operations includes the “landing ground roll segment (from touchdown to the runway exit) of an arriving aircraft, INCLUDING REVERSE THRUST [emphasis in original], and the taxiing from the runway exit to gate,” Federal Aviation Administration, *Emissions and Dispersion Modeling System (EDMS) User’s Manual*, FAA-AEE-07-01, Rev. 7 - 11/06/09, prepared by CSSI, Inc., Washington, D.C., November 2009. The real question, however, is not whether EDMS claims to model reverse thrust emissions, but whether it actually does so.

Figures 1a and 1b below depict the NO_x emissions rates for the five operational modes for which EDMS estimates emissions.

Figure 1a. Example EDMS (B747-400) Emission Rates by Operational Mode

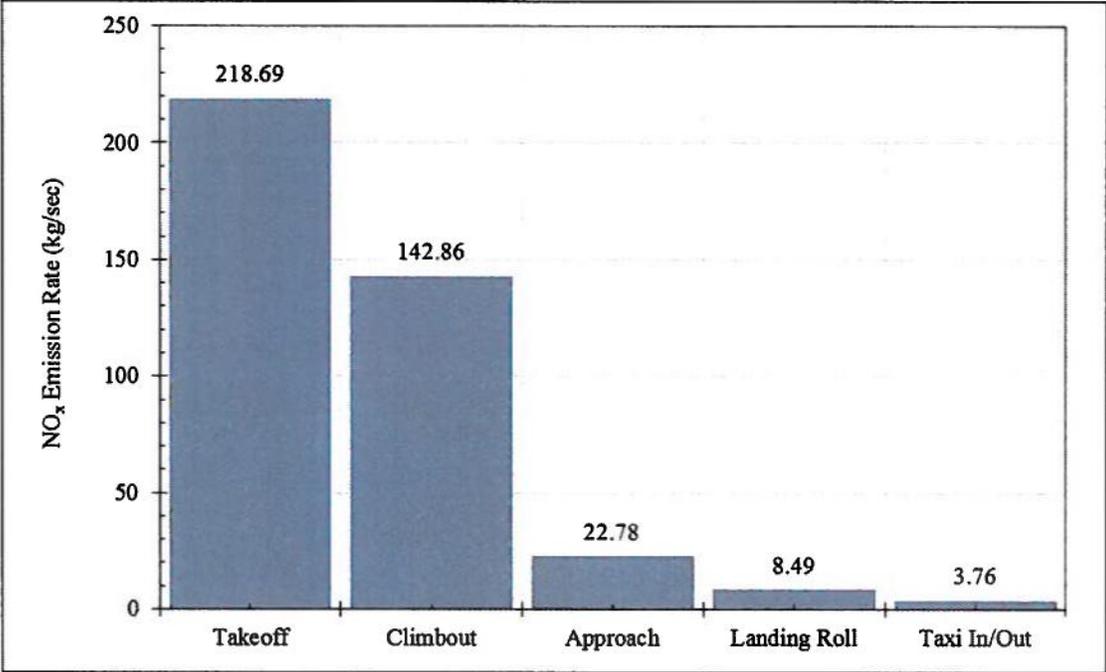
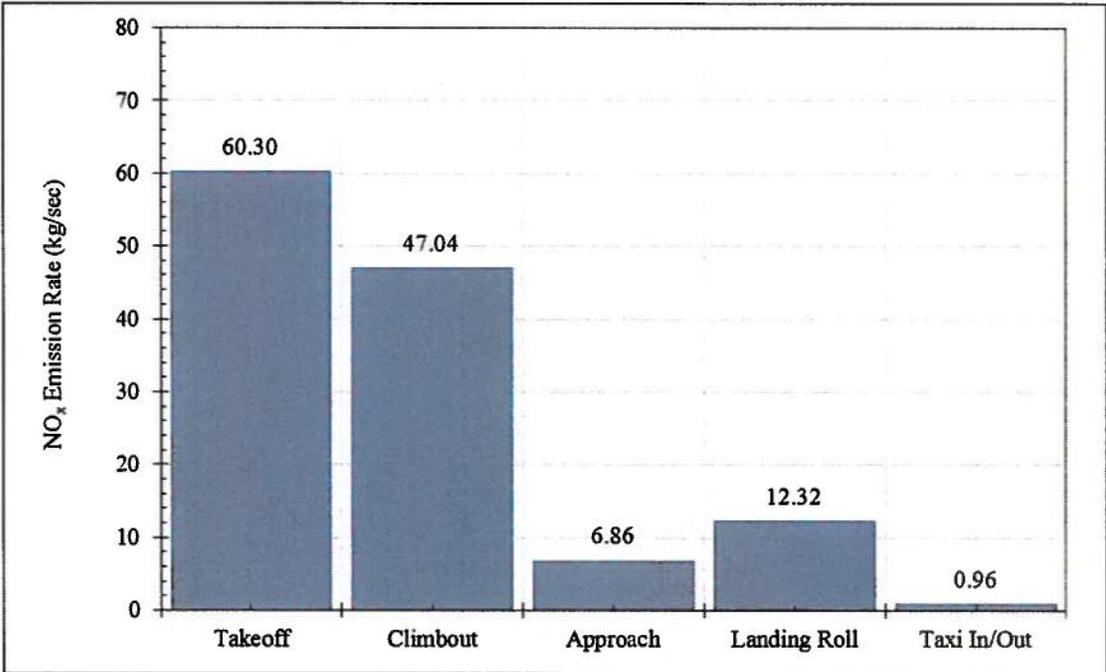


Figure 1b. Example EDMS (B737-800) Emission Rates by Operational Mode



As expected, NO_x emissions are directly related to thrust, being highest during takeoff and declining with thrust through the other modes. The exception is for the landing roll operational mode within which the FAA (through the EDMS User's Manual) claims to include reverse thrust operations. Such operations are high thrust and should reflect a relatively high NO_x emission rate, similar in magnitude to that of takeoff and climbout operations.

For the B747, Figure 1a indicates that landing roll NO_x reflects nothing more than a power-down transition from approach thrust to engine taxi. It might be possible that the reverse thrust portion of the landing roll mode is simply being "averaged down" with non-reverse thrust portions of the same mode. Figure 2a and 3a, however, seem to indicate that this is not the explanation.

Figure 2a. Example EDMS (B747-400) Operational Mode Durations

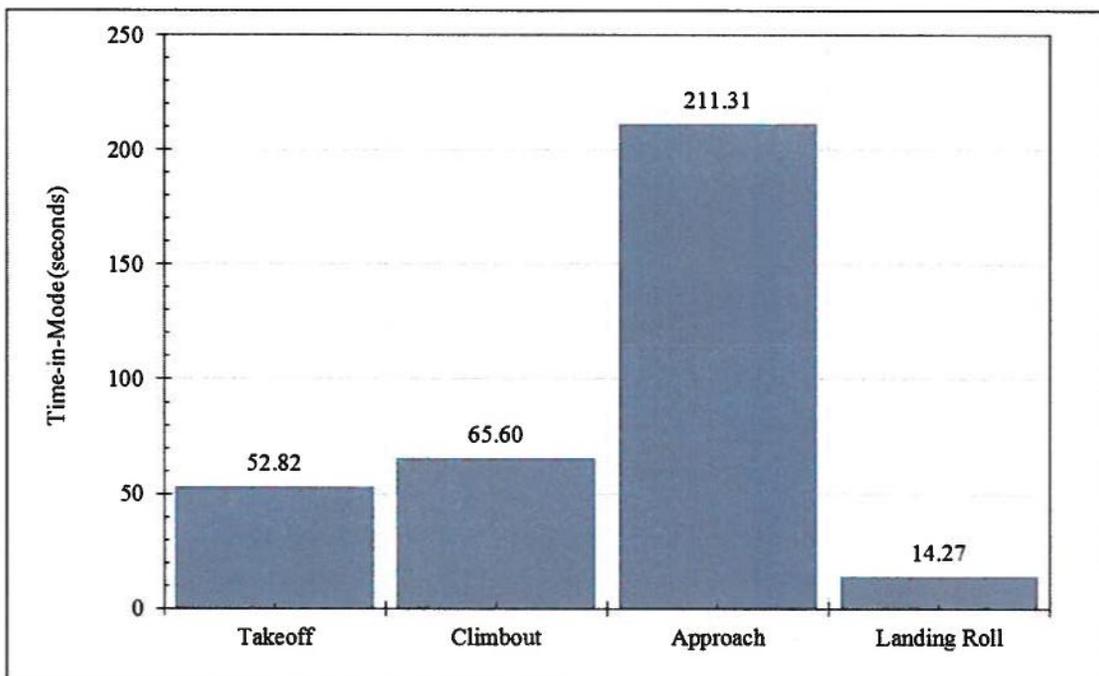


Figure 3a. Example EDMS (B747-400) Emission Rates by Second

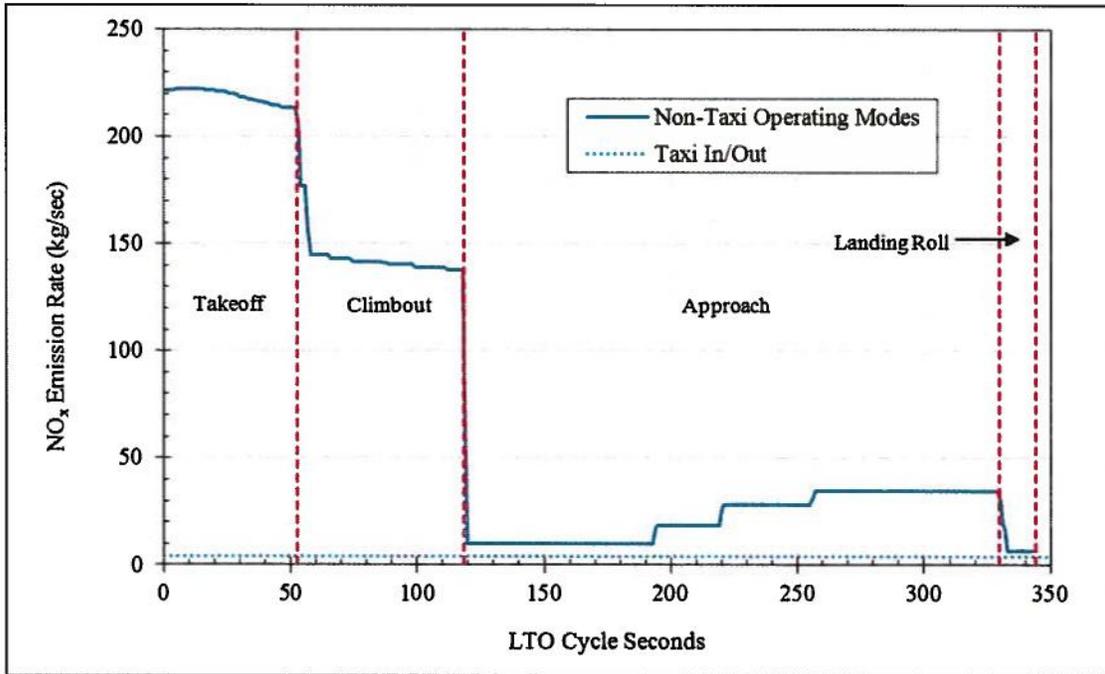


Figure 2a demonstrates that the duration of the entire landing roll operational mode is less than 15 seconds. The reverse thrust operation alone would generally endure for that entire period. Moreover, in Figure 3a, which depicts the second-by-second data for the aircraft operating modes, the transition from approach to landing roll operations clearly reflects the absence of any NO_x spike of any duration associated with the B747 landing roll.

The results are somewhat different for the B737. Figure 1b demonstrates a minor increase in landing roll NO_x from approach thrust, but this increase is far lower than the high thrust operations that would normally be expected from reverse thrust.

Figure 2b. Example EDMS (B737-800) Operational Mode Durations

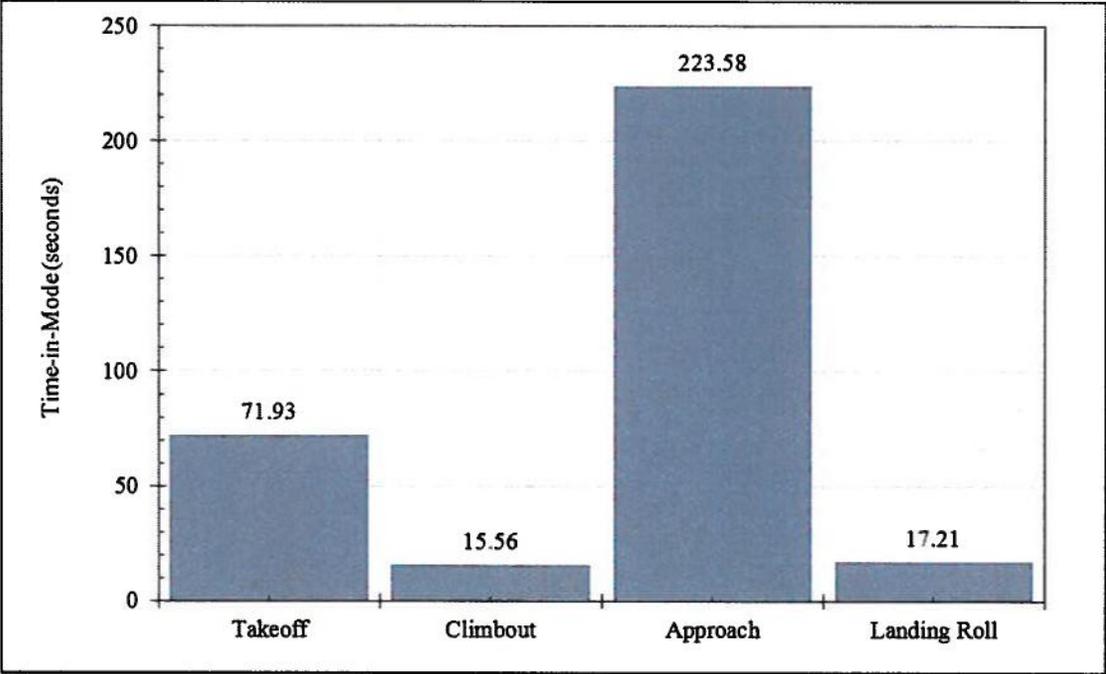
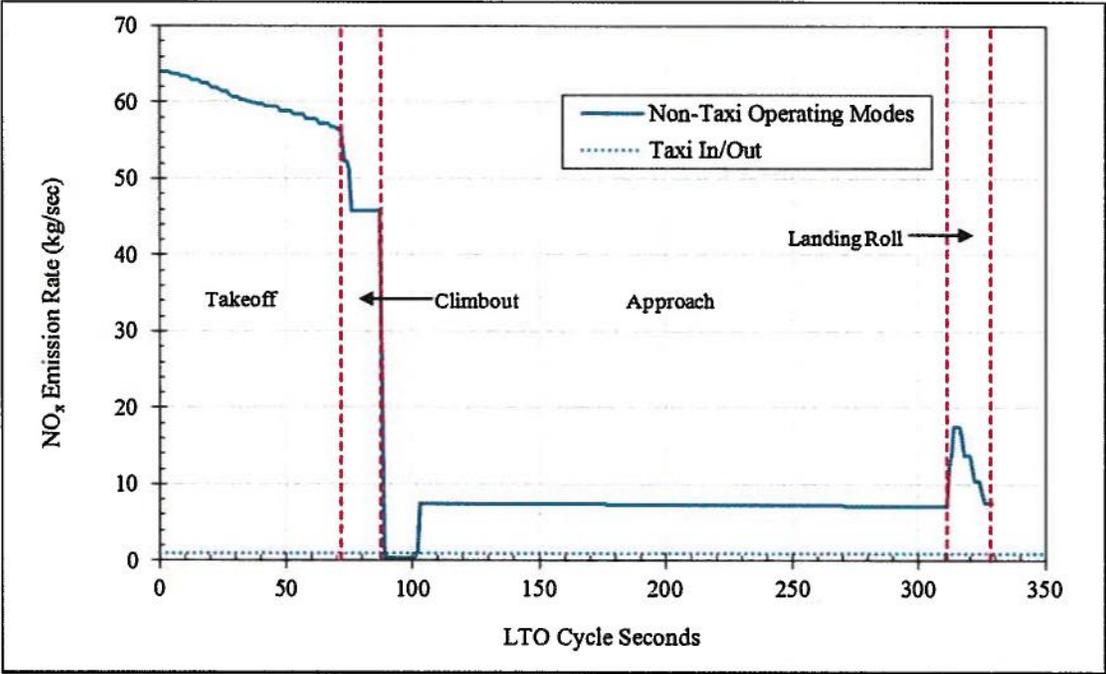


Figure 3b. Example EDMS (B737-800) Emission Rates by Second



Figures 2b and 3b show that, as was the case for the B747 example, the “muted” effect does not result from any landing roll averaging. In fact, the thrust increase is fairly constant across the complete 17 second landing roll, as depicted in Figure 4b.

Figure 4a. Example EDMS (B747-400) Relative Thrust (as NO_x) by Mode

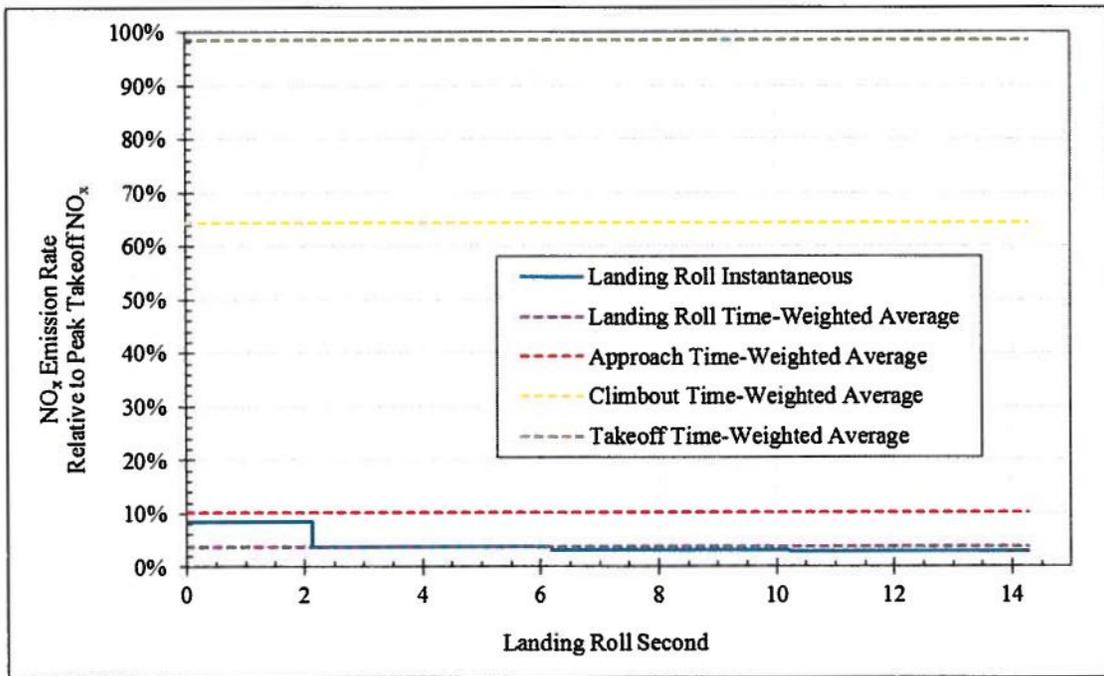
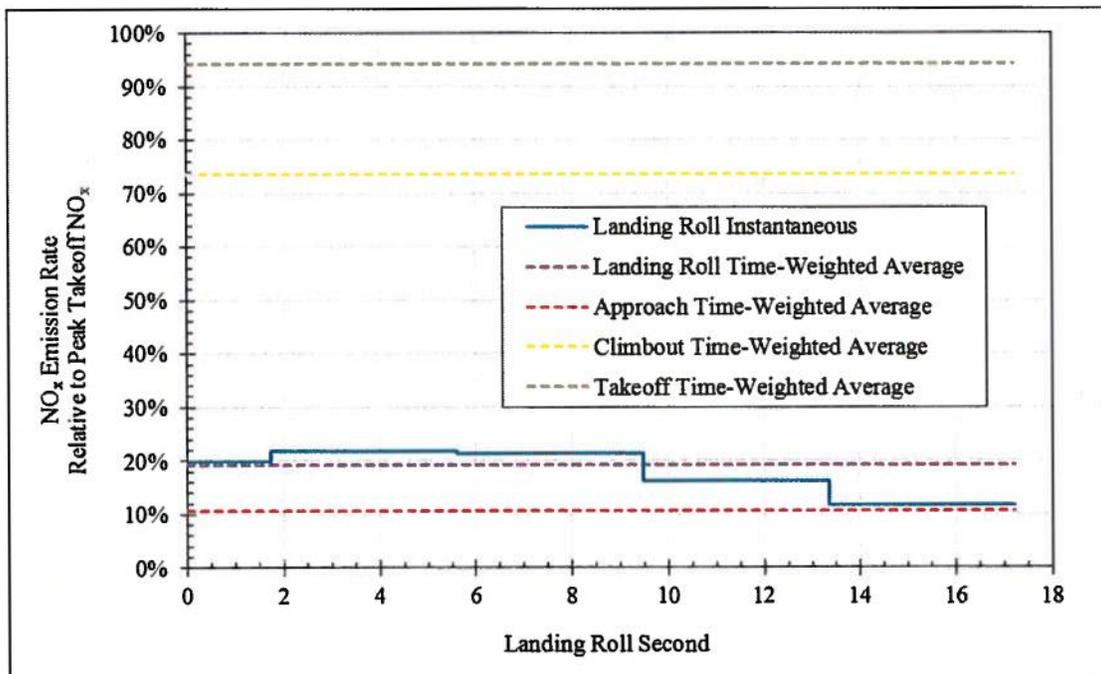


Figure 4b. Example EDMS (B737-800) Relative Thrust (as NO_x) by Mode



Figures 4a and 4b summarize the example results in terms of relative NO_x emissions rates across the four non-taxi operating modes. For these figures, mode specific NO_x is compared to peak takeoff NO_x on the premise that NO_x emissions rates are a reasonable surrogate for engine thrust conditions. As expected, takeoff and climbout thrusts are significant fractions of peak takeoff thrust. For the B747, Figure 4a demonstrates no reverse thrust operation during the landing roll. For the B737, Figure 4b, landing roll thrust is increased as would be expected during reverse thrust operations, but by a relatively modest amount.

From these calculations, it does not appear that EDMS properly accounts for reverse thrust operations. Accomplishing that task requires more than a User's Manual statement. Only a full review of the model algorithms and data sets would allow for any definitive determination of the EIR's analytic integrity. From the examples set forth above, it can be definitively stated that, if EDMS is modeling reverse thrust, the associated emissions are far lower than would be expected under FAA's guidelines for such modeling. As stated in FAA's "*Air Quality Procedures for Civilian Airports and Air Force Bases*," Appendix D, p. D-5, "[r]everse thrust is now considered by EPA as an official mode and should be included in calculation procedures as a sixth operating mode when applicable. Since reverse thrust engine operating conditions are similar to takeoff, time spent in reverse thrust should be combined with takeoff mode emissions indices and fuel flow as a means of accounting for reverse thrust mode emissions. Aircraft reverse thrust typically is applied for 15-20 seconds on landing." That these rules are not reflected in the EIR analysis calls into question the integrity of the EIR emissions calculations.

B. The Continuing Absence of Aircraft Engine Assignments From the FEIR Renders Its Air Quality Analysis, Like That in the DEIR, Incomplete

In its Response to Comment SPAS-AL00007-14, which addressed the absence of aircraft engine assignments in the DEIR's emissions estimation protocol, LAWA asserts that: (1) the data was provided in a list of applicable tables; and (2) EDMS provides "default engine selections for most aircraft types, and these defaults were used in the air quality impact analysis" [emphasis added]. This response is manifestly deficient for the following reasons.

First, the referenced tables provided in the DEIR list aircraft assumed in the analysis, not the engines associated with those aircraft. While the response states that "engine types used in the air quality impact analysis are directly tied to the aircraft fleet mixes," a statement of the obvious, it is actually an incomplete response. That is because each aircraft may use a variety of different engines, and the emissions profiles of each of those different engines may also differ dramatically. Therefore, a simple reference to aircraft type, without reference to the specific engine used on the aircraft, is an insufficient basis for calculating aircraft operating emissions.

Second, even if LAWA's statement were taken at face value, the public at which environmental review is aimed does not keep a spare copy of the EDMS lying around. If neither the DEIR nor FEIR provides the requisite information, the EIR's analysis cannot meet CEQA's

basis purpose of providing “sufficient information . . . to allow meaningful evaluation, analysis, and comparison with the proposed project.” CEQA Guidelines § 15126.6(d).

Third, the EIR does not specifically designate the engines used where no default engine assignment is made. Fourth, even where default engine selection is specified, neither the DEIR nor FEIR provides sufficient information to allow the public to ascertain if the engine assignments used remain appropriate in the face of continuing technological development. This is especially important as FAA voluntarily withdrew EDMS from the United States Environmental Protection Agency (“USEPA”) list for guideline models for air quality analysis in November, 2005, 70 Fed.Reg. 68,218. Therefore, since that time, EDMS has not been required to undergo non-FAA review and critique.

Finally, this absence of outside verification is evidenced in at least two errors in the EDMS model itself. First, startup emissions (for which EDMS estimates only hydrocarbon-based emissions) are underestimated because the model algorithm apparently does not account for the fact that startup emissions apply to more than one engine at a time. For the four engine B747, startup emissions are underestimated by 75%. For the two engine B737, startup emissions are underestimated 50%. Second, EDMS produces non-methane hydrocarbon (“NMHC”) emissions estimates that are greater than total hydrocarbon (“THC”) emissions. Since the former is a subset of the latter, this is not physically possible. Similar inconsistencies affect NMHC versus volatile organic compounds (“VOC”) emissions (NMHC is greater, which is also not possible), and NMHC versus total organic gas (“TOG”) emissions (NMHC is equal to TOG, which is not possible).

In short, given the palpable errors in the EDMS model, absent public scrutiny of the EDMS algorithms used in developing the emissions estimates in the EIR and the data resulting from the use of those algorithms, the results of the EIR’s analysis of operational emissions, entirely dependent upon broad references to EDMS, is, at best, inadequate.

C. The FEIR Similarly Omits Relevant Data Related to GSE and APU Emissions Estimation

The FEIR fills in some of the blanks left in the DEIR Ground Support Equipment (“GSE”) and Auxiliary Power Unit (“APU”) emissions estimates. What notably remains missing, however, is not the results of the GSE and APU emissions estimates, but the data and methodology used to arrive at these results. For example, the FEIR cites two California non-road emissions models (OFFROAD2011 and OFFROAD2007), yet provides no exemplar of the types of equipment assumed, the resulting emissions factors, or why associated emissions factors from the EDMS model are not used. In summary, the GSE and APU portions of the emissions analysis remains substantially under documented.

III. THE PROJECT'S SURFACE TRAFFIC IMPACTS ARE NOT FULLY EVALUATED OR DISCLOSED IN THE EIR

The FEIR's surface traffic analysis suffers from the same inadequacies as the analysis in the DEIR. For example, no effort was made to account for the fact that the geographic scope of the traffic analysis was determined only through a Memorandum of Understanding with the City of Los Angeles Department of Transportation, DEIR, p. 4-1184. The FEIR sets forth no supplement or addition to the MOU establishing that LAWA consulted with other surrounding jurisdictions such as Culver City or Inglewood in developing the scope of the EIR's surface traffic analysis.

Second, and perhaps as a consequence of LAWA's failure to consult with surrounding jurisdictions, the FEIR's, like the DEIR's, designated study area omits parts of Culver City northeast from Duquesne Avenue and does not include a substantial number of intersections along the northwestern portion of Culver City and western edge of Inglewood where these Cities intersect with the City of Los Angeles and the County of Los Angeles. Also due to the configuration of the study area, at least one substantial development project, the Metro Expo Line Extension roughly paralleling the arbitrary north boundary of the study area is not included in the analysis. Moreover, the part of Culver City that has been omitted is a critical transportation corridor where the current Expo Line terminal, Washington Boulevard, La Cienega Boulevard, Fairfax Avenue and Interstate 10 all come within close proximity.

Third, Culver City, like Inglewood, has prioritized the pedestrian infrastructure throughout the City. Increased traffic volumes at intersections within both Cities may create significant impacts to pedestrian access and safety, which issue is not addressed in the EIR's surface traffic analysis.

Further, LAWA's Response to Culver City's DEIR Comment SPAS-AL00007-33 concerning the absence of requisite mitigation of the Project's traffic impacts on Culver City is, at best, incomplete. While LAWA contends that "... a vote was taken to retain Culver City's existing thresholds of significance, rather than adopt the standard used by the City of Los Angeles," LAWA omitted the determination of the Culver City Planning Commission that "development projects outside Culver City shall use the thresholds for significant impact of other jurisdiction(s) when analyzing intersections in Culver City." Culver City Traffic Study Criteria, § 3(F), p. 15. This determination amounts to nothing more than that the standards of the jurisdiction in which the development is taking place, in this case Los Angeles, should be used where the impacts of development in Los Angeles cross jurisdictional lines and impact intersections in other communities, in this case Culver City.

Moreover, LAWA's reliance on the cited authority is misplaced. While CEQA Guidelines § 15064(b) assigns substantial discretion to the lead agency to determine standards of significance for environmental impacts, it does not empower that agency to ignore the standards applicable in affected jurisdictions. Similarly, in *Mira Mar Mobile Community v. City of Oceanside*, 119 Cal.App.4th 477, 493 (2004), the court affirmed the lead agency's authority to

determine significance “depending on the nature of the area affected.” *Id.* The “nature of the area affected” necessarily encompasses the standards applicable within that “affected area.”

In addition, LAWA’s commitment to mitigate the traffic impacts on Culver City is seemingly reluctant, and, ultimately, inadequate. For instance, even though Culver City commented extensively on the Project’s impacts on the intersections of Overland/Sawtelle and Washington/Walgrove and the enhanced need for traffic signalization at those two locations, LAWA responded that it is “willing to pay a fair share contribution; however, there is an insufficient nexus to require LAWA to pay for the entire improvement, nor would such payment be roughly proportional to the impact caused by the SPAS alternatives.” LAWA goes on to claim that the impacts on the two intersections are a “cumulative impact” of the Project and that “[t]he majority of this cumulative impact is not caused by this SPAS alternative,” Response to Comment SPAS-AL00007-33, p. 4-198. It is Culver City’s position, however, that LAWA’s reliance on the assumption that the bulk of the impact would have occurred as a result of ambient growth in the region is unsupported by any evidence, let alone substantial evidence, Response to Comment SPAS- AL00007-33, p. 4-198; and therefore LAWA should pay its fair share for at least the costs of design, administration and construction of traffic signals and the required interconnection based on an assessed high percentage of increased traffic generated by the SPAS Project at each of those intersections.

Finally, LAWA is similarly reluctant to provide mitigation for the admittedly impacted intersections at Lincoln and Washington Boulevards. Culver City pointed out in its comments on the DEIR that an appropriate mitigation measure would be the contribution of funding to the SR90 connector road to Admiralty Way project which would serve as a “relief valve” to Lincoln Boulevard when it reaches capacity, and, thus, effectively mitigate the impacts of the SPAS Project on that intersection. LAWA responds, however, that because “[t]he necessary approvals [for the SR90 connector road to Admiralty Way project] from Caltrans and the City of Los Angeles have not been obtained,” Response to Comment SPAS-AL00001-1, p. 4-121, the SR90 connector is not an adequate mitigation measure. Contrary to LAWA’s supposition, however, the County of Los Angeles, which administers the SR90 connector road to Admiralty Way project, considers the connector road to be an active project as described on pages 11-10 and 11-11 of the Marina del Rey Land Use Plan, February 8, 2012. Caltrans has approved the project’s study report for the project. Therefore, at this point in time, the project is active pending availability of funds, and should be designated as a reasonable and feasible mitigation measure for the demonstrable impacts of the SPAS Project.

IV. THE PROJECT DEFINITION REMAINS NONSPECIFIC

LAWA admits that it did not define a “single proposed project in the SPAS Draft EIR,” Response to Comment SPAS-AL00007-6, p. 4-172, but argues, nonetheless, that its treatment of “alternatives” as projects is consistent with CEQA, because “the SPAS Draft EIR identifies the ‘whole of an action’ that would be associated with each alternative.” Response to Comment SPAS-AL00007-6, p. 4-172, quoting CEQA Guidelines § 15378.

As Cities/County previously discussed in detail in their comments on the DEIR, and as is illustrated by the “hybrid” of Alternative 1 initially chosen as the Preferred Alternative, identifying the “whole of an action” is precisely what the DEIR and FEIR do not do. Nowhere in either document was there an independent discussion of the potential impacts of combined Alternatives 1 and 9. Nor is there any discussion or analysis of the differential impacts of eliminating the bus routes originally contemplated under Alternative 1, and replacing them with a rail line as contemplated in Alternative 9. The synergistic impacts may be greater or less, but, in either event, must be disclosed.

Nor does the case of *California Oak Foundation v. Regents of University of California*, 188 Cal.App.4th 227 (2010) support LAWA’s position. In that case, the University of California designated the “integrated projects,” consisting of seven independent projects on the southeast quadrant of the University’s Berkeley campus as the “project” to be analyzed under CEQA. *Id.* at 241. It also designated five proposed alternatives, each of which contains some, but not all, of the components of the “integrated projects.” *Id.* at 274-275. Contrary to LAWA’s claim, the court upheld the University’s “‘integrated’ approach, comparing each alternative, including all of its components, to the Integrated Projects as a whole.” *Id.* at 276 [emphasis added]. In other words, while the alternatives may have varied in their composition, the project never did.

Here, on the other hand, what is now the designated Project, the combination of Alternatives 1 and 9, was never discussed in combination in the DEIR (apparently on the pretext that NEPA does not require the disclosure of a preferred alternative in a DEIR), let alone “in detail sufficient [to enable] the public to discern from the [EIR] the ‘analytic route the . . . agency traveled from evidence to action.’” *Id.* at 262, quoting *Topanga Assn. for a Scenic Community v. County of Los Angeles*, 11 Cal.3d 506, 515 (1974). For instance, it is impossible to discern from the discussions in either the DEIR or FEIR the differential impacts that will result from the changes to the ground transportation system, including the potential air quality impacts of the construction.

For all the above reasons, Cities/County continue to maintain that further environmental review of the combined Alternatives 1 and 9, the newly designated project, is required to fulfill CEQA’s mandate.

V. THE FEIR, LIKE THE DEIR, FAILS TO ADEQUATELY ANALYZE THE IMPACTS OF THE FULL RANGE OF ALTERNATIVES

The FEIR, like the DEIR, omits simulation modeling (“SIMMOD”) for Alternatives 5 through 7, on the ground “that the modeling results for Alternatives 5 through 7 would likely either fall within the range of, and/or be generally comparable to, the results for Alternatives 1 through 4.” Response to Comment SPAS-AL00007-8, p. 4-177. To support its position, LAWA cites CEQA Guidelines § 15151 to the effect that “evaluation of the environmental effects of a proposed project need not be exhaustive,” and “the sufficiency of an EIR is to be reviewed in light of what is reasonably feasible.”

LAWA conveniently forgets to mention CEQA Guideline § 15126.6(d), requiring, among other things, that “[t]he EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project.” Instead, LAWA based its analysis on the purported similarity between Alternative 1 (proposing to move Runway 6L/24R 260 feet to the north) and Alternative 5 (proposing to move the runway 350 feet north). However, given the enormous increase in noise impacted population disclosed in the FEIR, as resulting from the Preferred Alternative, it is also reasonable to assume that moving the runway an additional 90 feet north would bring about some cognizable increase in the noise affected population which has not yet been disclosed, let alone analyzed. Moreover, Alternative 6 (movement of the runway only 100 feet north), was a recommendation made by Petitioners as part of the settlement of *City of El Segundo, et al. v. City of Los Angeles, et al.*, Riverside County Superior Court Case No. RIC426822, and was studied in depth during the early part of the SPAS process. It is hardly plausible that sufficient data does not already exist to make “reasonably feasible” a discussion of Alternative 6’s actual impacts instead of a mere second hand “conclusion” about them.

In short, while “the range of alternatives required in an EIR is governed by a ‘rule of reason,’” CEQA Guidelines § 15126.6(a) and (f), for those alternatives that are presented, which in this case also include Alternatives 5 through 7, “[t]he EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project.” CEQA Guidelines § 15126.6(d). [Emphasis added.] That information is absent here, making the FEIR’s alternatives analysis as deficient as that of the DEIR.

VI. THE FEIR OBFUSCATES THE PROJECT’S LACK OF CONSISTENCY WITH THE LOS ANGELES COUNTY AIRPORT LAND USE PLAN

While the FEIR ultimately concludes that “[t]he LAWA Staff-Recommended Alternative would be consistent with the objectives of the Caltrans Handbook,” and, therefore, “impacts would be less than significant,” FEIR, § 2.3.9.1, p. 2-140, that conclusion is belied by the FEIR’s disclosures.

First, the FEIR claims that “[t]he proposed airfield improvements would be designed in conformance with FAA safety requirements, as set forth in FAR Part 77, and would be consistent with ALUP policies that address RPZs and limit uses within these zones.” FEIR, § 2.3.9.1, p. 2-139. However, the FEIR also discloses that “[t]he proposed relocation of Runway 6L/24R 260 feet northward would shift the associated RPZ northward by the same amount, which would extend over existing developed uses near the east end of the runway that are not currently within the existing RPZ,” FEIR, § 2.3.7.2.1, p. 2-111. In another turnaround, the FEIR further claims that while “[t]he presence of such uses . . . may be considered incompatible with FAA design recommendations that RPZ areas be clear of all obstructions and occupied uses; however, it is not considered to pose a significant safety hazard compared to baseline conditions.” FEIR, § 2.3.7.2.1, p. 2-117.

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LAWA conveniently forgets both state and Federal law governing the areas around airports. FAA's Advisory Circular 150/5300-13A specifically sets forth rules governing permitted uses within RPZs. "It is desirable to clear the entire RPZ of all above-ground objects. Where this is impractical, airport owners, as a minimum, shall maintain the RPZ clear of all facilities supporting incompatible activities." Advisory Circular 150/5300-13A, §310.a(2), p. 70. Incompatible activities include, but are not limited to, those which lead to an assembly of people. Advisory Circular 150/5300-13A, §310.a(2), p. 70, citing FAA Memorandum, Interim Guidance on Land Uses Within a Runway Protection Zone, dated 9/27/2012. Incorporating this standard into state law, Cal. Pub. Util. Code § 21001, *et seq.*, ("State Aeronautics Acts"), which governs and structures all airport land use plans within the state, including that of Los Angeles County, explicitly recognizes the preemptive authority of Federal law in the area of aviation safety. "This state recognizes the authority of the federal government to regulate the operation of aircraft and to control the use of the airways, and nothing in this act shall be construed to give the department the power to so regulate and control safety factors in the operation of aircraft or to control use of the airways." Cal. Pub. Util. Code § 21240. As the RPZ is "primarily for the purpose of safety and convenience of people on the ground," Advisory Circular 150/5300-13A, § 310.a(1), p. 70, its uses are determined entirely by Federal regulation.

Despite these clear legal mandates, the FEIR anticipates adding to the RPZ at least 40 land uses, FEIR, Table SRA-2.3.7.2-2, more than one-half of which implicate "assemblies of persons." Moreover, the new approach surface for Runway 24R mandated in FAA's regulation, 14 C.F.R. Part 77, and incorporated into the ALUP by reference, includes "the upper portion [of an] existing 5-story office building located at the northwest corner of Sepulveda Boulevard and Westchester Parkway," FEIR, § 2.3.7.2.1, p. 2-110. Nevertheless, the FEIR postpones determination of the necessary mitigation of this clearly substantial safety impact. "The need, if any, for acquisition or other appropriate measures associated with changes in the RPZs will be determined by the FAA in later stages of planning and therefore are not addressed in this EIR." FEIR, § 2.3.9.1, p. 2-140. This nonspecific mention of potential mitigation does not create consistency with Federal law, the Public Utilities Code or CEQA, and does nothing to eliminate the Project's manifest inconsistency with the derivative requirements of the Los Angeles County Airport Land Use Plan.

Cities/County appreciate this opportunity to comment and look forward to LAW A's serious consideration of, and action in response to, the above comments.

Sincerely,

BUCHALTER NEMER
A Professional Corporation

By 

Barbara Lichman