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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF SAN DIEGO**

11 QUIET SKIES SAN DIEGO,

12 Petitioner,

13 v.

14 SAN DIEGO COUNTY REGIONAL
15 AIRPORT AUTHORITY, and DOES 1-20,

16 Respondent.
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20

CASE NO.:

PETITION FOR WRIT OF MANDATE

(CALIFORNIA ENVIRONMENTAL
QUALITY ACT)

Pub. Res. Code §§ 21000 et seq.;
CCP §§ 1085, 1094.5

IMAGED FILE

INTRODUCTION

1. Commercial jet noise from the San Diego International Airport (“SDIA”) causes significant harm to human health, including cardiovascular disease, strokes, heart attacks, stress, metabolic disease like obesity and diabetes, and cognitive deficits. The proposed Airport Development Plan would add eleven new terminal gates, an undetermined number of “Remain Overnight” jet parking places, and approximately 38% more flight operations per hour, thereby dramatically exacerbating a well-known and documented serious health risk to human health.

2. There are available noise mitigation measures, however, that will help the communities on the ground that would otherwise pay the price for the airport’s expansion. Examples include flying standard departures further out over the ocean before turning left or right to keep noise away from the coastal areas, and flying standard arrivals higher and further away from the inbound impacted communities. Indeed, the FAA Reauthorization Act of 2018 requires such commercial jet noise studies as a condition of ongoing funding, and two such studies are currently underway in San Diego, with anticipated completion dates in 2021. The results must be submitted to the FAA, and the fact of their pendency does not guarantee that noise mitigation steps will be implemented.

3. Petitioner Quiet Skies San Diego (“Petitioner” or “Quiet Skies”) files this Petition for Writ of Mandate requesting the court to require the San Diego County Regional Airport Authority (“Respondent,” “SDCRAA” or “Airport Authority”) to rescind and set aside the specific portions of the proposed ADP’s Environmental Impact Report (“EIR”) that violate the agency’s statutory duty not to undertake or approve environmentally damaging projects without both (1) disclosing all potential significant environmental harm, including growth inducing impacts, and (2) adopting and implementing all feasible mitigation for such harm.

4. Petitioner seeks a Writ of Mandate ordering the San Diego County Regional Airport Authority to fully comply with the California Environmental Quality

1 Act (“CEQA”), Public Resources Code sections 21000, et seq., regarding its mandatory
2 duty under Public Resources Code sections 21002 and 21080 both to disclose the
3 adverse environmental consequences of projects, like the ADP, it proposes to carry out,
4 and to refrain from undertaking and approving projects that may significantly harm the
5 environment, including public health and welfare, unless it has adopted all feasible
6 measures to mitigate that harm.

7 5. On January 9, 2020, Respondent Airport Authority approved a \$3 billion
8 plan to dramatically expand the San Diego International Airport (“SDIA”). Some of the
9 plan is noncontroversial, such as updating Terminal 1 for an improved passenger
10 experience in terms of waiting areas, restrooms and restaurants, and building the
11 SDCRAA a new office. However, the ADP also proposes to add 11 new gates and
12 potentially additional “Remain Overnight” jet parking places, thereby facilitating and
13 enabling a projected 38% increase in hourly departures and landings, otherwise known
14 as flight operations. SDIA currently accommodates approximately 36 flight operations
15 per hour, but under the ADP flights will increase to 50 operations per hour within the
16 next several years. The noise of those additional flights will occur throughout the day,
17 but particularly during early morning hours and late at night. The noise of these flights
18 will be borne by those under and near the departure and landing paths, including the
19 coastal communities from Point Loma to La Jolla, and east to East County.

20 6. The increased flight operations supported by 11 new gates further
21 exacerbate noise impacts on impacted communities, because they will all fly on the new
22 “superhighways in the sky” created by the FAA’s implementation of
23 NextGen/Metroplex in 2017 (“Next/Gen”). NextGen is a satellite navigation system that
24 requires all departures and arrivals to fly on a single concentrated path, purportedly for
25 jet fuel savings and efficiency reasons. Where flight paths used to be more disbursed,
26 spreading the burden and reducing the frequency of noise on any particular community,
27 planes now fly on a laser-like line over the same impacted areas, exacerbating the noise
28 impact for those nearby. NextGen was implemented without consideration of the

1 extreme increase in noise and the fact that slight modifications to routes would greatly
2 reduce the noise. On December 20, 2019, a bicameral congressional letter was sent to
3 the FAA Administrator “on behalf of hundreds of thousands of Americans who continue
4 to suffer the effects of the FAA’s NextGen program.” That letter cites to the noise
5 created that “has had a devastating impact on residents’ quality of life.” The letter also
6 references an August 27, 2019 report by the United States Department of
7 Transportation’s Office of Inspector General, which raises serious questions about the
8 efficacy of the NextGen program.

9 7. Quiet Skies San Diego supports “smart growth” at SDIA, which means
10 airport expansion tempered by appropriate noise and environmental mitigation. Quiet
11 Skies acknowledges that increased airport capacity is good for the San Diego economy,
12 tourism, conferences, hotels, restaurants and our local attractions, and the resulting tax
13 revenue for the City and County of San Diego. However, increased capacity at SDIA
14 must be accompanied by strategies to reduce jet noise to protect the citizens of San
15 Diego who bear the brunt and cost of that economic expansion. The ADP fails to do
16 that.

17 8. The SDCRAA rushed the ADP and the ADR EIR and puts its interest in
18 economic expansion far ahead of human health. Airport noise mitigation studies paid
19 for and administered by the SDCRAA and the FAA are currently ongoing and should
20 inform any decisions about adding 11 new gates and/or RONS to SDIA. A special
21 “Flight Path and Procedures” study was commenced in Spring 2018 and resulted in
22 many substantive recommendations to mitigate noise over and around the impacted
23 communities. Many of those recommendations involve headings taken by departing
24 planes off the runway at SDIA. That approach is also being considered in a second
25 study, known as the “Part 150 Study.” Both studies are anticipated to conclude in mid-
26 2021, at which point the SDCRAA is to submit the recommendations of both studies to
27 the FAA for review and implementation.
28

1 9. In fact, the 2018 FAA Reauthorization Act requires the FAA to conduct
2 noise studies at SDIA. These studies, which are a critical first step in reducing noise and
3 protecting human health, should be completed *prior* to consideration of any approval of
4 an increase in the number of gates at SDIA, and any approval should be conditioned on
5 the imposition of feasible mitigation measures to reduce the severe adverse impacts that
6 have been experienced by coastal communities since the implementation of the NextGen
7 project.

8 10. As described above, the Airport Authority prepared and certified an EIR
9 that ignored, denied, or minimized significant and harmful environmental impacts,
10 including but not limited to greatly increased exposure in surrounding and proximate
11 communities to noise from aircraft operations, particularly during take-offs and
12 landings. It has long been established that aircraft noise above certain levels is
13 responsible for serious adverse human health impacts. Medical studies show that
14 environmental noise, including aircraft noise, is correlated with heart attacks,
15 cardiovascular disease, sleep disruptions and disturbance, stress and impaired cognitive
16 performance. Epidemiological studies found that environmental noise is also associated
17 with arterial hypertension, myocardial infarction, heart failure and stroke. Furthermore,
18 nighttime noise especially increases the levels of stress hormones and vascular oxidative
19 stress, which can lead to endothelial dysfunction and arterial hypertension. Based on
20 epidemiological evidence and mechanistic insight from translational human and animal
21 data, aircraft noise induces a stress response, characterized by the activation of the
22 sympathetic nervous system and increased levels of catecholamines, cortisone, and
23 angiotensin, which ultimately leads to vascular damage, stroke and cardiac failure. In
24 just the last decade, several studies have found that traffic noise, including road, aircraft
25 and railway noise, is associated with increased risk of both cardiovascular and metabolic
26 diseases. Chronic noise generates cardiovascular risk factors on its own, including
27 increased blood pressure, glucose levels, blood viscosity and blood lipids and activation
28 of blood coagulation, all of which may manifest as cardiovascular disease. Additionally,

1 high levels of environmental noise have been correlated with mental health problems,
2 such as depression and anxiety, conditions that are known to adversely affect
3 cardiovascular function. The risks are real and serious.

4 11. Yet, the EIR fails adequately and accurately disclose the extent of these
5 impacts, and disclaims responsibility for disclosing some of them on the specious
6 ground that it lacks authority to regulate them. As a result of the EIR's failure to even
7 adequately disclose the extent of these noise and health impacts, the EIR also fails to
8 adequately analyze measures to mitigate these human health impacts, and the Airport
9 Authority adopted no meaningful measures to address the aggravation of the current
10 noise problem that would occur with implementation of the ADP.

11 12. The EIR is dismissive of the entire subject of public health impacts by
12 unilaterally declaring and claiming that the medical evidence is uncertain and that
13 studies performed to date on both animals and humans do not provide definitive
14 answers. In essence, the EIR demands scientific certainty of all aspects of the
15 relationship between noise and health. However, CEQA does not mandate scientific or
16 medical certainty before an issue requires analysis and mitigation.

17 13. The EIR fails to adequately consider the growth-inducing impacts of the
18 ADP, and provides inadequate responses to comments on this issue. The Airport
19 Authority falsely alleges that the ADP Project would not enable or accelerate the airlines
20 to reach maximum capacity at SDIA sooner than they could without such an expansion
21 of gates. The Airport Authority claims that its forecast projects an increasing number of
22 flight operations, regardless of whether the ADP is approved. However, adding 11 new
23 gates will clearly accelerate the path to maximum capacity at SDIA, and necessarily will
24 enable more planes to land, park and depart again every day. The failure to adopt, or
25 even consider, feasible measures to mitigate the adverse impacts of increased noise on
26 nearby and coastal communities is a violation of CEQA.
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1 **PARTIES**

2 14. Respondent San Diego County Regional Airport Authority is a local entity
3 of regional government, created by the California Legislature in 2001 via Assembly Bill
4 93. Its scope of powers includes the ability to own and operate the SDIA, which powers
5 it assumed from the San Diego Port District in 2003. (See Public Utilities Code §§
6 21670.3 and 170,000, et seq.) The Airport Authority's Board is composed of nine
7 members, appointed by various state, County, and local governments, and designated
8 local mayors or other officials drawn from specified areas of the County of San Diego.
9 (Pub. Util. Code §170010, subd. (e).) The Airport Authority is, and at all times relevant
10 to this Petition was, the owner/operator of the SDIA, and is the lead agency for CEQA
11 purposes for the ADP Project.

12 15. Petitioner Quiet Skies San Diego is an, unincorporated association of
13 residents of at least San Diego, La Jolla, Mission Beach, Ocean Beach, Pacific Beach,
14 and Point Loma (collectively, "impacted communities") focused on mitigating the
15 commercial jet noise burdening their communities, protecting human health and
16 engaging with the community, elected officials, the SDCRAA and the FAA to address
17 the impacts of aircraft operations on San Diego residents. Quiet Skies San Diego
18 advocates for the minimization of the noise exposure and adverse health impacts to
19 neighborhoods, most of whom were previously quiet and unaffected prior to NextGen.
20 Residents should not pay the price of expanded airport operations with their health.

21 16. Petitioner has exhausted its administrative remedies by participating in the
22 environmental review and administrative approval proceedings for the ADP, by
23 submitting comment letters on both the Draft and Final EIRs.

24 **JURISDICTION AND VENUE**

25 17. This Court has jurisdiction over the writ action under Code of Civil
26 Procedure sections 1085 and 194.5, et seq., and under sections 21168 and 21168.5 of the
27 Public Resources Code.
28

1 18. Venue lies in this County because the actions complained of herein were
2 committed in San Diego County.

3 **BACKGROUND AND FACTUAL ALLEGATIONS**

4 19. The San Diego Airport was originally opened in 1928, in an area that is
5 now adjoined by a dense urban metropolis, with high-rise buildings and dense
6 development now closely packed around the Airport. The approach path is famous for
7 requiring planes to “thread” their way through skyscrapers. The current SDIA serves a
8 large portion of the southernmost part of California.

9 20. The ADP is an approximately \$3 billion project, which would add eleven
10 gates and an undetermined number of Remain Overnight jet parking places. The ADP
11 would involve demolishing the existing Terminal One and building a new Terminal One
12 with 30 gates, increased from the current Terminal One’s 19 gates. The net effect of the
13 planned changes would be to expand and increase SDIA’s capacity by increasing the
14 total gates from the current fifty-one to sixty-two, many or all of which could
15 accommodate wide-bodied jets, carrying more passengers and heavier loads. Heavier
16 loads require the use of larger and noisier engines. The ADP also contemplates
17 additional Remain Overnight jet parking, which would increase the number of early
18 morning departures, and late night arrivals, when there is no curfew

19 21. The ADP’s 11 new gates and increased flight operations would exacerbate
20 the noise problems created by the FAA’s implementation at SDIA of the NextGen
21 Metroplex navigation system, which creates concentrated superhighways in the sky.
22 Since 2017, the NextGen flight paths into and out of SDIA concentrate repetitive flights
23 along the same path over and adjacent to La Jolla, Mission Beach, Ocean Beach, Pacific
24 Beach, Point Loma and East County. Commercial jet traffic now regularly flies over
25 and near these communities, which results in dramatic spikes in noise levels in
26 otherwise quiet neighborhoods disrupting sleep, educational activities, and the quiet
27 enjoyment of life and property. SDIA commercial jet noise complaints have
28 skyrocketed from these communities in recent years since NextGen was implemented.

1 22. The Airport Authority prepared a draft Environmental Impact Report
2 (“DEIR”) for the ADP and released it for public review in July of 2018. The public
3 review period on the DEIR began July 9, 2018 and closed on August 22, 2018. In
4 response to comments by Petitioner and others, the Airport Authority prepared a revised
5 EIR and recirculated it. The Recirculated Draft Environmental Impact Report
6 (“RDEIR”) was made available to the public for review and comment on September 9,
7 2019; the comment period closed on November 4, 2019. The Airport Authority certified
8 the Final EIR (“FEIR”), composed of the RDEIR and responses to public comments, as
9 complete and adequate on January 9, 2020, and approved the ADP Project on that same
10 day. The Notice of Determination, which started the running of the period within which
11 to challenge the certification of the FEIR and approval of the project, per Public
12 Resources Code section 2121167, subdivision (c), was issued on January 10, 2020.

13
14 **FIRST CAUSE OF ACTION**
15 **(VIOLATION OF CEQA, PUBLIC RESOURCES CODE SECTIONS 21002**
 AND 21081, CEQA GUIDELINES 15126.4)

16 23. The California Environmental Quality Act (“CEQA”), found at Public
17 Resources Code section 21000, et seq., is the premier environmental protection statute in
18 California. It requires a thorough analysis of the environmental impacts of a project,
19 including impacts on human health, before its approval by governmental agencies in
20 California.

21 24. CEQA is also an environmental full disclosure statute, which requires
22 public agencies to analyze and fully disclose to the public the environmental
23 consequences of actions the agencies propose to undertake themselves, or of private
24 actions the public agencies propose to approve. The FEIR for the ADP fails CEQA’s
25 full environmental disclosure requirement.

26 25. The EIR fails to analyze and disclose the increase in flights that will or may
27 reasonably be expected to use SDIA after the ADP is carried out. Instead, the EIR
28 states: “Implementation of the proposed project, or Alternative 4, ... would not enable or

1 accelerate ‘the airlines to reach maximum capacity at SDIA sooner.’ (Final EIR, p. 2-
2 238.) However, the Project substantially accelerates the rate at which the airport
3 reaches capacity, with 50 operations per hour rather than the present 36 operations per
4 hour. In turn, this accelerates the time at which more San Diego residents are subjected
5 to the very serious increased health and environmental risks and consequences. The
6 EIR’s assertion that the ADP itself will cause no increase in flights, despite providing 11
7 new gates, is illogical and not supported by reason or analysis.

8 26. The EIR fails to analyze and disclose the full numbers and types of aircraft
9 that may reasonably be expected to use SDIA once the ADP Project is implemented.
10 Petitioner anticipates that the additional flights will be serviced by larger, and likely
11 noisier, aircraft. To fairly evaluate the likely impact of noise levels associated with the
12 project, two baselines should be analyzed: the noise levels before implementation of the
13 Next Gen Metroplex project and those which have occurred since Next Gen Metroplex
14 was implemented. Once those baselines are established, further analysis is required to
15 project the increase in noise associated with the Project, including but not limited to
16 analysis of the number of daily flights and types of aircraft projected at various times of
17 the day at various stages of project implementation. The EIR does not address the
18 number of flight operations at SDIA each day, nor are there any projections addressing
19 the number and timing of additional flights that SDIA will accommodate with the
20 expansion project.

21 27. The EIR fails to calculate the baseline levels of noise that are currently
22 being generated, as well as the projected levels of noise projected to be generated under
23 the ADP Project, by aircraft flying closer to or over San Diego, La Jolla, Mission Beach,
24 Ocean Beach, Pacific Beach, Point Loma and East County in a manner that fully
25 discloses the adverse impacts on the residents of those areas. The FEIR uses only noise
26 measurement techniques and standards that report on average noise (i.e, the Community
27 Noise Equivalent Level [CNEL]), and does not use techniques or standards that report
28 on spikes of maximum noise that now occur and that will occur more frequently after

1 the ADP is carried out (e.g., the Single Event Noise Level [SENL]) unless mitigation
2 measures are adopted. The FEIR thus deprives the public and the decision-makers with
3 the full information CEQA requires by failing to establish a valid noise baseline against
4 which to measure the ADP's impacts; by failing to adequately determine the increase in
5 aircraft noise that will or may reasonably be expected to occur as a result of the ADP;
6 and by failing to analyze methods to reduce those impacts.

7 28. The EIR fails to adequately describe the impacts of aircraft noise on human
8 health, labeling such impacts "speculative." However, Petitioner and other commenters
9 have placed in the record multiple peer-reviewed scientific papers and authoritative
10 international World Health Organization (WHO) reports and expert opinion showing the
11 widely-accepted existence and severity of such noise-caused health impacts, including
12 increased risk of cardiac disease and stroke, metabolic disease like diabetes, sleep-
13 deprivation and sleep cycle interruption and disturbance, anxiety, depression, stress and
14 impaired cognitive performance, and other serious health harms.

15 29. Despite recognizing that "studies regarding the physiological effects of
16 noise provide more correlation between noise and cardiovascular disease," the EIR
17 ducks the issue by unilaterally claiming that the studies "still fall short of providing the
18 definitive noise dose and the response relationship that identify the noise level at which
19 these effects start and the rate at which these physiological effects intensify as noise
20 level increases." (Final EIR, p. 2-96.) The EIR also states: "It has not been possible for
21 research to conclude causal relations between health disorders and noise exposure."
22 (Final EIR, p. 2-5.) The EIR further acknowledges that the World Health Organization
23 Environmental Noise Guidelines provide recommendations relating to the assessment
24 and management of environmental noise, yet these are not adopted due to the alleged
25 "uncertainty of the science." On this basis, the EIR claims that under CEQA, if an
26 impact is too speculative to analyze or assess for significance, the agency must note this
27 conclusion and terminate discussion of the impact." However, these impacts are not
28 speculative, but the subject of numerous studies.

1 30. “CEQA does not require scientific certainty before an issue requires study.”
2 (*Planning & Conservation League v. Dep't of Water Res.* (2000) 83 Cal. App. 4th 892,
3 915.) Here, the EIR confuses the issue of whether “an impact is too speculative,” with
4 whether there is scientific certainty of “the definitive noise dose” that causes certain
5 impacts, and other details of the impacts of noise on human health.

6 31. While additional studies of the health impacts of the ADP’s increased noise
7 levels may be desirable, the Airport Authority’s claim that the ADP cannot wait until
8 additional studies are completed is fundamentally inconsistent with the Airport
9 Authority’s simultaneous claim that future commercial jet operational activity levels are
10 not dependent on the addition of new gates. The EIR states, “As described in Chapter 2,
11 future activity levels at SDIA are not dependent on gates (i.e. same level of passenger
12 activity in the future can be accommodated with implementation of the proposed project,
13 with 62 gates, as it could without any additions to the existing 51 gates).” (Recirculated
14 EIR, p. 5-47.) If that is the case, then it is even more appropriate to defer the ADP until
15 appropriate noise mitigation measures are implemented to protect human health under
16 and around the flight paths.

17 32. The implementation of ADP is premature, as there are two studies currently
18 being conducted – the Flight Path and Procedures study and the FAA Part 150 (“Part
19 150”) study, both of which are being funded by the FAA and administered by the
20 SDCRAA. The recommendations coming out of these studies will be sent to the FAA
21 for consideration and implementation at the discretion of the FAA. If the FAA and its
22 constituent airline clients desire more capacity at SDIA, they should first be required to
23 mitigate the noise associated with flight operations at SDIA. Indeed, since Congress
24 conditioned the 2018 FAA Reauthorization Act on the FAA conducting noise studies
25 and mitigation as a result of NextGen/Metroplex, it is only logical that these studies be
26 completed and their recommendations implemented before the ADP proceeds. The EIR
27 fails to reflect this critically important information as it relates to the ADP’s operation.
28

1 33. In addition to the inadequate analysis of noise, the EIR fails to calculate all
2 greenhouse gas (“GHG”) emissions increases that will result from the increased aircraft
3 flights and the flights of larger aircraft with greater GHG emissions, on the baseless
4 ground that the Airport Authority lacks jurisdiction to regulate them. Although the
5 regulation of emissions from a particular type of jet is a federal prerogative, the Airport
6 Authority is not required to expand operations and increase the already significant noise
7 exposures to residents. Furthermore, as is shown by the success of other communities in
8 reducing flight noise, the Authority has considerable influence with the FAA, even if it
9 does not have the legal authority to take certain actions itself.

10 34. The EIR also presents a misleading calculation of increased emissions of
11 conventional air pollutants, including air pollutants that react in San Diego’s plentiful
12 sunlight to form ground-level ozone (smog).

13 35. CEQA, at Public Resources Code section 21002, provides that “public
14 agencies should not approve projects as proposed if there are feasible alternatives or
15 feasible mitigation measures available which would substantially lessen the significant
16 environmental effects of such projects.” In addition, Public Resources Code section
17 21081 provides that “no public agency shall approve or carry out a project for which an
18 environmental impact report has been certified which identifies one or more significant
19 effects on the environment that would occur if the project is approved or carried out
20 unless” either the public agency makes findings that changes or alterations to the project
21 have been made that would mitigate or avoid such significant effects, or the public
22 agency adopts a Statement of Overriding Consideration that such significant effects are
23 outweighed by specified economic, social, or other benefits of the project. (Pub. Res.
24 Code § 21081, subds. (a), (b).) Such findings must be supported by substantial
25 evidence. (Pub. Res. Code § 21081.5.) However, no such findings were made in this
26 case.

27 36. The EIR also fails to carry out CEQA’s substantive command that agencies
28 not carry out or approve projects that will have significant environmental impacts unless

1 the approving agency identifies and adopts all feasible measures to mitigate that harm,
2 including by modifying the project to avoid or reduce such impacts. (Pub. Res. Code §§
3 21002, 21081(a).) The SDCRAA and FAA regularly work together and are capable of
4 implementing all feasible measures to mitigate the harm to human health caused by
5 commercial jet noise. However, the EIR fails to identify and adopt all feasible
6 mitigation measures to reduce noise increases caused by the ADP, especially in the
7 context of flight paths established by NextGen.

8 37. The EIR fails to identify and adopt all feasible mitigation measures to
9 reduce air pollutant emission increases caused by carrying out the ADP, which is
10 especially important in light of the increase in noise caused by the implementation of
11 NextGen. Petitioner has submitted recommended mitigation measures to the Airport
12 Authority, including a study on flight path and procedure modifications to dramatically
13 reduce and mitigate the increased noise impacts on impacted communities. A copy of
14 that study, prepared by noise experts ABCx2, was submitted into the record.
15 Unfortunately, while the ABCx2 study was considered, most of its recommendations
16 were rejected by the SDCRAA and its consultants in the Flight Path & Procedures
17 Study.

18 38. The EIR also fails to identify and adopt all feasible mitigation measures to
19 reduce GHG emissions increases and their resultant climate-altering impacts, arguing
20 that the Airport Authority is excused from such identification and mitigation by the fact
21 that it does not regulate such emissions directly.

22 39. The EIR further fails either to adopt mitigation measures proposed by
23 Petitioner and other commenters on the RDEIR or to show, based on substantial
24 evidence, that such mitigation measures are infeasible.

25 40. The mandate of Public Resources Code sections 21002 and 21081,
26 subdivision (a) requires that agencies not approve projects with significant impacts if
27 those impacts can be avoided or mitigated. Here, the Airport Authority has been
28 presented with a feasible mitigation measure by securing the agreement of the FAA to

1 reroute flights that now adversely impact residents in the previously identified coastal
2 communities.

3 41. Quiet Skies commissioned a study on flight path and procedure
4 modifications that would dramatically reduce and mitigate the increased noise impacts
5 on impacted communities associated with the Nextgen Metroplex implementation.
6 Quiet Skies presented that study to the Airport Authority, but the Airport Authority was
7 dismissive and declined to implement it, without showing a basis in substantial evidence
8 that this alternative/mitigation measure is infeasible. While FAA would need to consent
9 to changes of flight paths and procedures to reduce the adverse noise impact on
10 impacted communities, FAA has given such consent in the past when properly
11 requested. The feasibility of alternatives is judged under a rule of reason. (*Citizens of*
12 *Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 566.) Various proceedings
13 have shown that obtaining FAA consent to such changes have a reasonable chance of
14 success. The Airport Authority is obliged to meaningfully analyze this alternative.

15 42. Pursuant to statutory authority found in Public Resources Code section
16 21083 and 21083.1, the California Office of Planning and Research has proposed, and
17 the California Natural Resources Agency has adopted, a set of Guidelines for CEQA's
18 implementation, found at California Code of Regulations, title 14, section 15000, et seq.
19 CEQA Guidelines section 1521083.1. The CEQA Guidelines prescribe various
20 procedures and requirements for the preparation and certification of EIRs. Among these
21 is the requirement in Guidelines section 15088, subdivision (c) that the lead agency must
22 respond to public comments on an EIR it prepares with "good faith, reasoned
23 responses."

24 43. The Airport Authority's FEIR here fails to respond to comments by
25 Petitioner Quiet Skies San Diego and others with such good faith, reasoned responses.
26 Among others, the FEIR's responses to comments about noise increases, methods of
27 measuring and reporting noise levels, the state of scientific and medical knowledge
28 concerning the human health impacts of noise, the increase in aircraft operations that

1 will result from the ADP, and the treatment of GHG emissions and other air pollutants
2 are often superficial, facile, are inadequate, and do not demonstrate good faith.

3 44. In each of the respects enumerated above, Respondent San Diego County
4 Regional Airport Authority has violated its duties under the law, abused its discretion,
5 failed to proceed in the manner required by law, and decided the matters complained of
6 without the support of substantial evidence, all in violation of CEQA.

7 45. Petitioner has complied with Public Resources section 21167.7 by serving
8 a copy of this Petition on the California Attorney General. A copy of this letter is
9 attached as **Exhibit A**.

10 46. Petitioner has complied with Public Resources section 21167.5 by sending
11 a notification to the Airport Authority of its intention to file this Petition, prior to filing.
12 A copy of this letter is attached as **Exhibit B**.

13 47. Petitioner has elected to prepare the administrative record in this case.
14 Petitioner's Notice of Election to Prepare the Administrative Record is attached as
15 **Exhibit C**.

16 17 **PRAYER**

18 WHEREFORE, Petitioner prays for relief as follows:

19 1. For an alternative and peremptory writ of mandate commanding
20 Respondent San Diego County Regional Airport Authority to immediately vacate and
21 set aside its certification of the Environmental Impact Report for the Airport
22 Development Plan until and unless the Airport Authority fully complies with all
23 requirements of CEQA by addressing the inadequacies identified in this Petition;

24 2. For costs of this suit;

25 3. For reasonable attorneys' fees; and

26 4. For such other relief as this Court deems just and proper.
27
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1 DATED: February 7, 2020

Respectfully Submitted,

2 CHATTEN-BROWN, CARSTENS & MINTEER

3
4 By: /s Josh Chatten-Brown

5 Josh Chatten-Brown

6 Jan Chatten-Brown

7 Attorneys for Petitioner

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EXHIBIT A

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February 7, 2020

By U.S. Mail

California Attorney General
600 W. Broadway 1800
San Diego, CA 92101

Re: Challenge to San Diego County Regional Airport Authority's Proposed Airport
Development Plan

Honorable Attorney General:

Please find enclosed a copy of the Petition for Writ of Mandate filed to request the Court to require the San Diego County Regional Airport Authority ("SDCRAA") to rescind and set aside those portions of the proposed Airport Development Plan's Environmental Impact Report that violate the SDCRAA's statutory duty not to undertake or approve environmentally damaging projects without both (1) disclosing all potential significant environmental harm and (2) adopting and implementing all feasible mitigation for such harm.

This Petition is being provided pursuant to the notice provisions of the Public Resources Code. Please contact me if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Josh Chatten-Brown". The signature is stylized with a large, sweeping 'J' and 'C'.

Josh Chatten-Brown

Enclosure

PROOF OF SERVICE

I am employed by Chatten-Brown, Carstens & Minter LLP in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 2200 Pacific Coast Highway, Ste. 318, Hermosa Beach, CA 90254. On February 7, 2020, I served the within documents:

LETTER TO THE CALIFORNIA ATTORNEY GENERAL REGARDING PETITION FOR WRIT OF MANDATE

☒ **VIA UNITED STATES MAIL.** I am readily familiar with this business' practice for collection and processing of correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid. I enclosed the above-referenced document(s) in a sealed envelope or package addressed to the person(s) at the address(es) as set forth below, and following ordinary business practices I placed the package for collection and mailing on the date and at the place of business set forth above.

I declare that I am employed in the office of a member of the bar of this court whose direction the service was made. I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on February 7, 2020, at Hermosa Beach, California 90254.



Cynthia Kellman

SERVICE LIST

California Attorney General
600 W. Broadway, #1800
San Diego, CA 92101

EXHIBIT B

Hermosa Beach Office
Phone: (310) 798-2400
Fax: (310) 798-2402
San Diego Office
Phone: (858) 999-0070
Phone: (619) 940-4522


Chatten-Brown, Carstens & Minter LLP
2200 Pacific Coast Highway, Suite 318
Hermosa Beach, CA 90254
www.cbearthlaw.com

Josh Chatten-Brown
Email Address:
jrcb@cbearthlaw.com
Direct Dial:
619-940-4522

February 6, 2020

By U.S. Mail

Ms. C. April Boling, Board Chair
c/o Board Services Department
The San Diego County Regional Airport Authority
San Diego International Airport
PO Box 82776
San Diego, CA 92138

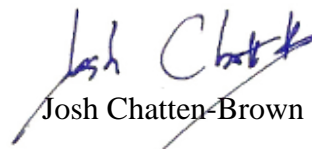
Re: Challenge to San Diego County Regional Airport Authority's
proposed Airport Development Plan

Dear Ms. Boling:

Pursuant to Public Resources Code section 21167.5, please take notice that Quiet Skies San Diego plans to file a petition for writ of mandate challenging the proposed Airport Development Plan, portions of which violate the California Environmental Quality Act.

This petition will be filed in the San Diego Superior Court, Central Division, 330 W. Broadway Street, San Diego, California 92101.

Sincerely,


Josh Chatten-Brown

Enclosure

PROOF OF SERVICE

I am employed by Chatten-Brown, Carstens & Minter LLP in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 2200 Pacific Coast Highway, Ste. 318, Hermosa Beach, CA 90254 . On February 06, 2020, I served the within documents:

Letter to The San Diego County Regional Airport Authority Board Chair, Ms. C. April Boling

☒ **VIA UNITED STATES MAIL.** I am readily familiar with this business' practice for collection and processing of correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid. I enclosed the above-referenced document(s) in a sealed envelope or package addressed to the person(s) at the address(es) as set forth below, and following ordinary business practices I placed the package for collection and mailing on the date and at the place of business set forth above.

I declare that I am employed in the office of a member of the bar of this court whose direction the service was made. I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on February 6, 2020, at Hermosa Beach, California 90254.



Cynthia Kellman

SERVICE LIST

Ms. C. April Boling, Board Chair
c/o Board Services Department
The San Diego County Regional Airport Authority
San Diego International Airport
PO Box 82776
San Diego, CA 92138

EXHIBIT C

1 CHATTEN-BROWN, CARSTENS & MINTEER LLP
2 Jan Chatten-Brown (SBN 050275), jcb@cbcearthlaw.com
3 Josh Chatten-Brown (SBN 243605), jrcb@cbcearthlaw.com
4 302 Washington Street, #710
5 San Diego, CA 92103
6 619-940-4522; 310-798-2400
7 Fax: 310-798-2402

8 Attorneys for Petitioner Quiet Skies San Diego

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF SAN DIEGO**

11 QUIET SKIES SAN DIEGO,

12 Petitioner,

13 v.

14 SAN DIEGO COUNTY REGIONAL
15 AIRPORT AUTHORITY, and DOES 1-20,

16 Respondent.
17
18
19
20

CASE NO.:

**NOTICE OF ELECTION TO PREPARE
THE ADMINISTRATIVE RECORD**

(CALIFORNIA ENVIRONMENTAL
QUALITY ACT)

Pub. Res. Code §§ 21000 et seq.;
CCP §§ 1085, 1094.5

IMAGED FILE

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE:

3 Pursuant to Public Resources Code section 21167.6, Petitioner Quiet Skies San
4 Diego hereby elects to prepare the administrative record in this matter.

5
6 DATED: February 7, 2020

Respectfully Submitted,

7 CHATTEN-BROWN, CARSTENS & MINTEER

8
9 By: /s Josh Chatten-Brown

10 Josh Chatten-Brown

11 Jan Chatten-Brown

12 Attorneys for Petitioner
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