



NEIGHBORHOOD NOISE

CITIZENS AGAINST AIRPORT POLLUTION, P.O. BOX 26142, SAN JOSE, CA 95159 (408) 297-9753 JANUARY 2000

Vote Yes on Measure O— Guaranteed Traffic Relief Now!

The City of San Jose approved a billion-dollar airport expansion without realistic solutions for traffic and public transit at a time when the valley's traffic congestion worsens daily. Local politicians and big business want you to believe that Measure O is flawed and that *they* will fix the congestion choking our valley with gridlock and exhaust. Not Likely!

Over 26,000 people helped put this measure on the ballot. Hundreds of volunteers spent countless hours gathering signatures, only to find that the authors of this measure privately negotiated a watered-down deal with the City! San Jose Mayor Gonzales, concerned that the initiative might actually pass, persuaded four leaders of the Airport Traffic Relief Alliance (ATRA) that a hastily crafted, watered-down compromise should be substituted for Measure O. This compromise is now a new city ordinance, but it is inadequate for several reasons:

- The time frame for assuring that traffic improvements are implemented was extended to two years (rather than one), and the City Council, at a public meeting, will make a "determination" of what the two years is.
- City plans for a rail link to the airport are vague.
- There are no penalties for excessive delays or failure to perform on the traffic improvements.

As a result of this deal, ATRA will now work to defeat their own initiative!

Measure O will:

- Allow airport parking, safety, and

runway improvements to begin now

- Allow terminal expansion when traffic improvements are within one year of completion
- Ensure that improvements are paid for by airport funds whenever possible
- Guarantee traffic improvements will not be delayed indefinitely
- Bring a rail connection to the airport

Don't allow local politicians to delay traffic improvements while congestion and gridlock erode our quality of life. Say NO to longer commutes on highways 87, 101, and 880 and do something NOW to relieve San Jose's horrible traffic. Don't be fooled! This measure is about traffic relief. It does not prevent airport expansion. It does guarantee phased airport expansion with road improvements. A vote for Measure O will reduce traffic congestion, shorten commute time, and improve transit connections in San Jose.

**Don't forget to VOTE—
March 7, 2000!**

CAAP Recommends:

- * YES on Measure O
- * Ken Yeager, Council District 6



Curfew Challenges

AOPA Comments to the FAA

Several months ago San Jose International Airport re-applied to the Federal Aviation Administration (FAA) to utilize passenger facility charges (PFCs). This application was published in the Federal Register. As such, any "interested person" could comment on that application. And so, the Aircraft Owners & Pilots' Association (AOPA) did just that! They contended that San Jose's curfew regulations did not follow federal

guidelines and laws. They therefore opposed the release of such funds—amounting to millions of dollars annually—to the airport. They contended the following:

1) Our Airport Noise Control Program outlines an unjustly discriminatory weight-based curfew that is imposed as mandatory, not voluntary. The curfew (11:30 p.m. to 6:30 a.m.) applies only to planes weighing more than 75K pounds.

2) Curfew enforcement as mandatory is illegal under the 1990 Airport Noise & Capacity Act and violates grant assurances between the airport and the FAA. The airport has failed to provide satisfactory evidence of compliance in either the Airport Improvement Program or the PFCs; therefore, the airport should take corrective action to "legalize" the Airport Noise Control curfew.

3) The AOPA also notes the 1987 City request for federal approval for the curfew. And the FAA disapproved the implementation of a weight-based curfew for lack of substantiating documentation to justify the curfew. FAA stated "...it recognizes this measure represents a continuation of past practices, however, the fact alone is insufficient to waive (part 150) documentation requirements."

In 1983, the FAA commented on the draft Airport Noise Control Program (ANCP) by observing that a noise abatement measure must apply

Reminder: Yearly Dues are Due!

CAAP relies on the generosity of its members to keep up its valiant fight to balance the needs of the airport and its neighbors!

evenly to all airport users and not to any specific subset of users. Also, this inequity should be resolved prior to any implementation efforts. In 1984, United Airlines noted that the regulation would be invalid as it established permissible operations for aircraft based on weight rather than on actual noise. The ANCP interest is in controlling noise.

AOPA further notes that the Aircraft Noise & Operations Monitoring System is used to validate curfew intrusion times. The FAA stated "...for safety reasons, a noise monitoring system should not be used for enforcement purposes...as this might encourage aircraft operators to engage in flight maneuvers detrimental to safety." As this management system is funded by PFCs, the AOPA also opposed this as a funding source.

Despite the above negative input, FAA granted San Jose Airport the right to levy the PFCs, some \$3 per passenger. The Burlingame FAA office reports that the FAA has reviewed the AOPA material and also believes there is nothing in it to prevent funding to the San Jose airport from the Airport Improvement Program. Many believe this situation illustrates that the FAA and the airport are primarily focused on airport development to the detriment of noise impacted neighborhoods.

Larry Ellison, Hero or Flake?

Larry Ellison, the billionaire CEO of Oracle Corp. has filed suit against the City of San Jose, challenging the validity of the airport curfew. His suit alleges that the airport curfew is unreasonable and discriminatory and therefore contrary to Federal law. He might be right. CAAP has long questioned whether the curfew was legally enforceable. However, former Mayor Susan Hammer and former City Attorney Joan Gallo repeatedly assured San Jose citizens that the airport curfew was valid and legally enforceable. We hope they were right, but the City of San Jose has been hopelessly incompetent in enforcing the existing curfew.

Generally speaking, a local airport proprietor can regulate airport operations to reduce noise pollution provided such regulations are reasonable, non-discriminatory, and not unduly burdensome on interstate commerce. Ellison flies a Gulfstream V as his corporate jet. Fully fueled, it weighs more than 75,000 pounds. San Jose's curfew restricts the time of day that jet aircraft weighing more than 75,000 pounds can operate.

Billionaire Ellison doesn't like these restrictions. He's filed a lawsuit challenging the curfew as unreasonable and discriminatory. He argues that some smaller aircraft (under 75,000 pounds) are in fact noisier than his aircraft. As such, he alleges that San Jose's restrictions are both unreasonable and discriminatory because they allow noisier aircraft to fly when his expensive aircraft cannot.

According to the City of San Jose, Mr. Ellison has violated the airport curfew on repeated occasions. The City warned Mr. Ellison that it would take legal action against him if the violations continued. The Oracle CEO beat them to the punch. He filed suit seeking a court determination whether the airport curfew is a valid restriction that prevents him from coming and going as he pleases.

Mayor Gonzales made campaign promises that he would enforce the airport curfew. He hasn't. Airport curfew violations have continued every month that Mayor Gonzales has been in office. So much for Mayor Gonzales and his commitment to the neighborhoods. However, Billionaire Ellison has called the Mayor's bluff. We

expect that Mayor Gonzales will direct the City Attorney to seek a settlement of the issue, fast. Yet this may be embarrassing to the Mayor if he appears weak and ineffectual.

After years of promising enforcement of the airport curfew, the City of San Jose has a golden opportunity. Communities all across the nation are seeking to limit the noise pollution, air pollution, and traffic congestion caused by today's modern airports. Local restrictions to protect the quality of life from airport operations exist in communities all across California and across the nation. Airports provide an important service to the flying public. However, modern commercial airports are enormously polluting and require thoughtful environmental regulation.

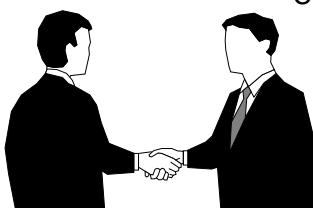
Larry Ellison seeks to fly his multi-million dollar aircraft in and out of San Jose any time he chooses. After all, he's a billionaire. His schedule must be very important and certainly more important than the peace and quiet of the average working families he disturbs with his curfew violations. Don't worry about Larry Ellison. He can get a good night's sleep at his secluded home in Woodside.

Airport Noise Report Hotline

Is it worth your time to call 452-0707?

Airport noise wakes you up. You are groggy and annoyed—first thing you do is check the clock (3 a.m.), then you consider making a call to the Automated Noise Monitoring Center. If you hesitate and fall back to sleep,

Words to start the new year by:



(Quoted from Henry Ford)

COMING TOGETHER is a beginning...

(CAAP 1990)

STAYING TOGETHER is progress...

(CAAP 1990-2000)

AND WORKING TOGETHER is success!

(CAAP 2000-?)

your complaint does not get recorded unless you remember to do it in the morning. So who cares? Does it really matter if your voice gets added to the computerized tally?

The answer is a resounding *Yes, your complaint counts!*

The city and airport managers look at the statistics. If the complaint tally is down, they can take those numbers and claim that the airport is getting quieter. This logic can and will be used by some people to argue for expanded airport hours and more flights. So, regardless of the time of day or night, when you hear enough

airport noise to be disturbed, make that call to 452-0707. (p.s.: did someone carefully select this phone number to match the first commercial "707" jet?)

Monthly Noise Report—November 1999

There were 60 curfew intrusions, an increase of 25 from October 1999. Only nine of these are deemed "In Noncompliance" with the Noise Control Program. As usual, United and American are the biggest offenders, who chronically ignore curfew hours. Letters have been sent AGAIN to these airlines reminding them of the

Airport Noise Control Program's restrictions.

There was also an increase in calls made to the hotline, for a total of 128 calls, up from 86 in October. There were 47 engine runups reported and 30 of these, including high powered runups, were conducted during curfew hours.

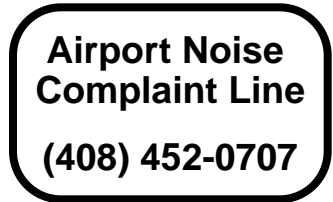
Fast Fact: From November 1998-1999 there were 1339 total complaints.

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New Way to Reach CAAP!

Email: caapsj@hotmail.com

YES! I want to fight Airport Pollution!

Please apply the enclosed donation toward _____ \$1,000 _____ \$500
the **Neighborhood Defense Fund***: _____ \$750 _____ \$250
_____ Other _____ I pledge a monthly donation of \$ _____

Name: _____

Address: _____

_____ Phone: _____ Email: _____

Employer: _____ Occupation: _____

**CAAP is required by law to disclose the occupation and employer of those who contribute more than \$99.*

_____ I have also included my annual support of \$35.00.

P.O. Box 26142, San Jose, CA 95159 (408) 297-9753

Check out our web site at: www.caap.org



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ADDRESS CORRECTION REQUESTED