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June 23, 2005

VIA FAX 202-493-5032 and By Certified Mail Return Receipt Requested

National Freedom of Information Act Staff
Federal Aviation Administration
ARC-40
800 Independence Ave., SW
Washington, DC 20591

VIA FAX 847-294-8490 and By Certified Mail Return Receipt Requested

Ms. Vickie Morris, FOIA Coordinator
FAA Great Lakes Region, AGL-4
2300 E. Devon Avenue
Des Plaines, IL 60018

VIA E-MAIL
Mr. Barry Cooper
Chicago Area Modernization Program Office
AGL-1CM
FAA Great Lakes Region
2300 E. Devon Avenue
Des Plaines, Illinois 60018

VIA E-MAIL
Mr. Perry A. Kupietz
Regional Counsel
Great Lakes Region
Federal Aviation Administration
2300 E. Devon Avenue
Des Plaines, IL 60018

Re: Freedom of Information Act Request relating to metropolitan Chicago and O'Hare Airport

Dear Gentlepersons:

This Freedom of Information Act request is intended to make certain that our pre-existing FOIA requests are not summarily terminated by FAA and that the categories of document requests we have made are clear. Our prior FOIA requests in this matter were made on November 19, 2003 by the Suburban O'Hare Commission and on February 26, 2004 by St. John's United Church of Christ, Helen Runge, Shirley Steele, the Rest Haven Cemetery Association, Robert Placek, Leroy Heinrich, and Roxanne Mitchell (copies enclosed).

Mr. Kupietz, Regional Counsel for the FAA Great Lakes region has stated in an e-mail to me that our prior FOIA requests terminated as of December 17, 2004 — an assertion as to which we disagree — and that FAA therefore had no obligation to produce documents generated after December 17, 2004.

We believe that our prior requests are still active but — to the extent FAA disagrees with our position — this letter represents a new FOIA request for the same categories of documents. In addition, we have added sub-categories to our requests to more specifically identify document categories which we believe were included within our prior requests. Please produce for our inspection the following documents:

1. **All documents relating to the proposed project entitled "O'Hare Modernization Program" ("OMP") proposed by the City of Chicago.** This category includes, but is not limited to, all documents relating to the Airport Master Plan, the Environmental Impact Statement (EIS) and the Airport Layout Plan for the OMP, and includes all documents relating to the estimated costs of the OMP, cost/benefit analyses (whether included in or not included in the NEPA review), passenger/aircraft forecasts, the prospective financing of the OMP, the scheduling of the OMP, and the scheduling of the EIS, the Master Plan, and the FAA decision-making process. This category also includes all computer simulation programs, computer input and output, and CAD files relating to the OMP.

2. **All documents relating to the "World Gateway" project at O'Hare, including documents relating to its present and projected status and implementation.** This includes all documents relating to the World Gateway project as it relates to the OMP project.

3. **All documents relating to the National Plan for Integrated Airport System (NPIAS) and any state or regional plan as they are related to the State of Illinois and/or commercial air carrier airports in the six county Chicago metropolitan area.** This request focuses specifically on the statement in the Record of Decision (ROD) in the 1984 O'Hare EIS:

> "Development of another air carrier airport to serve the Chicago Metropolitan Area <u>will be studied as part of a State System Plan</u> to be prepared by the Illinois Department of Transportation under a series of grants to be funded by the FAA's Airport Improvement Program. The initial grant was issued in September 1984."
>
> 1984 FAA ROD at 4

This request seeks documents relating to that State System Plan and the relationship of that State System Plan to the current O'Hare Master Plan as well as any subsequent State System Plan that encompasses commercial airports in the metropolitan Chicago area.

4. **All documents that relate to the inclusion of development projects at O'Hare and Midway in the Illinois State System Plan, the formulation and development of the National Plan of Integrated Airport Systems (NPIA) and/or in the FAA's National Priority System and ACIP process.** This

request includes all documents relating to the inclusion of Phase One of the "O'Hare Modernization Project" (OMP) in the 2005-2009 NPIAS (National Plan For Integrated Airport Systems) and, if the Phase One project is included in the National Priority System/ACIP process – all such documents.

5. **All documents relating to the preparation and development of scheduling orders or agreements implemented at O'Hare since 2002, including but not limited to the August 2004 FAA scheduling order and the March 25, 2005 Notice of Proposed Rulemaking (NPRM).**

6. **All documents relating to the preparation of the report entitled *Capacity Needs in the National Airspace System* (FAA/MITRE 2004).**

7. **All documents requested in the enclosed June 22, 2005 letter from Joseph Karaganis to Barry Cooper.**

8. **All documents relating to FAA consideration of the complaints and objections of the "Religious Objectors" as to the proposed destruction of St. Johannes Cemetery and Rest Haven Cemetery by the OMP and Phase One.**

9. **All documents relating to the deletion of the Lima Lima taxiway from Phase One of the OMP and the financing and other problems associated with Lima Lima.**

10. **All documents as to any problems with OMP or Phase One that are not related to Lima Lima – including any documents that relate to a Chicago Tribune story of June 20, 2003 describing other cost increases and anticipated construction delays with OMP.**

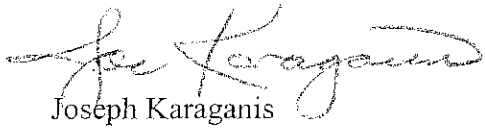
11. **All documents as to the cost estimates for Phase One and the full OMP.**

12. **All documents as to the financing of Phase One or the OMP.**

We believe that these documents are encompassed within our previous FOIA requests but were withheld from our examination due to Mr. Kupietz assertion (with which we disagree) that the cut-off date for production for our previous FOIA requests was December 17, 2004.

We are not asking FAA to copy these documents. We are simply asking to inspect and scan these documents where the documents are in paper format and ask that computer files be placed on CD-ROM or DVD disks where the documents are in electronic format. Please contact me to arrange a convenient time for us to examine the documents responsive to this request as soon as possible.

Sincerely yours,



Joseph Karaganis
Counsel for the Suburban O'Hare Commission, St. John's United Church of Christ, Helen Runge, Shirley Steele, the Rest Haven Cemetery Association, Robert Placek, Leroy Heinrich, and Roxanne Mitchell

Enclosures

cc: Robert Cohn

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November 19, 2003

VIA FAX (847)-294-7498

Mr. Perry A. Kupietz
Regional Counsel
Great Lakes Region
Federal Aviation Administration
2300 E. Devon Avenue
Des Plaines, IL 60018

VIA FAX 847-294-8490

Ms. Vickie Morris, FOIA Coordinator
FAA Great Lakes Region, AGL-4
2300 E. Devon Avenue
Des Plaines, IL 60018

Re: Freedom of Information Act Request reference prior Freedom of Information Act (FOIA) Request Document Request No. 2003—O02431GL

Dear Mr. Kupietz and Ms. Morris:

Pursuant to our discussions with Mr. Andrew Steinberg and Mr. Kupietz, the Suburban O'Hare Commission has agreed, subject to the conditions set forth below, to modify its prior FOIA request of January 3, 2003 and now requests access to examine and copy the following documents.

1. **All documents relating to the proposed project entitled "O'Hare Modernization Program" ("OMP") proposed by the City of Chicago.** This category includes, but is not limited to, all documents relating to the Airport Master Plan, the Environmental Impact Statement (EIS) and the Airport Layout Plan for the OMP, and includes all documents relating to the estimated costs of the OMP, cost/benefit analyses (whether included in or not included in the NEPA review), passenger/aircraft forecasts, the prospective financing of the OMP, the scheduling of the OMP, and the scheduling of the EIS, the Master Plan, and the FAA decisionmaking process. This category also includes all computer simulation programs, computer input and output, and CAD files relating to the OMP.

2. **All documents relating to the "World Gateway" project at O'Hare, including documents relating to its present and projected status and implementation.** This includes all documents relating to the World Gateway project as it relates to the OMP project.

3. **All documents relating to the National Plan for Integrated Airport System (NPIAS) and any state or regional plan as they are related to the State of Illinois and/or commercial air carrier airports in the six county Chicago metropolitan area.** This request focuses specifically on the statement in the Record of Decision (ROD) in the 1984 O'Hare EIS:

> "Development of another air carrier airport to serve the Chicago Metropolitan Area <u>will be studied as part of a State System Plan</u> to be prepared by the Illinois Department of Transportation under a series of grants to be funded by the FAA's Airport Improvement Program. The initial grant was issued in September 1984."
>
> 1984 FAA ROD at 4

This request seeks documents relating to that State System Plan and the relationship of that State System Plan to the current O'Hare Master Plan as well as any subsequent State System Plan that encompasses commercial airports in the metropolitan Chicago area.

This request also seeks all documents that relate to the inclusion of development projects at O'Hare and Midway in the Illinois State System Plan, the Field Formulation of the National Plan of Integrated Airport Systems and in the FAA's National Priority System.

4. **All documents relating to the post 2000 Delay Task Force at O'Hare.** With the exception of category 3, this request is limited to documents generated in the last 5 years.

Our agreement to narrow our request is in response to the following understandings:

1. While we and the FAA continue to have a dispute about whether we have satisfied the requirements for either no charge for FAA searches or a waiver of those charges, Mr. Steinberg indicated that we could have access to the documents without resolving this dispute if we agreed to pay a "nominal" fee (which was in the range of 2-3 thousand dollars). We are prepared to pay this amount (but no more) to save the transactional costs which would be expended in resolving this dispute over FAA fees. By doing so, we in no way concede the merits of the FAA's assertion as to access charges.

2. Mr. Kupietz indicated that a large number of documents within the modified request related to technical "NAV-AID" matters. We agreed that if we could examine samples of the documents in their location, we may not need to examine these "NAV-AID" documents.

3. Mr. Kupietz asked if we wished to examine informal documents and communications such as e-mails. We do wish to examine such documents.

4. Our document request extends to computer programs and computer input and output material used by FAA or used by Chicago to assess Chicago's O'Hare expansion proposal. We wish to obtain these materials in electronic form as soon as possible so that our experts can evaluate these materials.

Please get back to me as soon as possible as to when we can have access to these materials.

Sincerely yours

Joseph Karaganis

Joseph Karaganis

Mr. Andrew B. Steinberg
Chief Counsel FAA

Mr. Robert Cohn

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JOSEPH V. KARAGANIS
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CHRISTOPHER W. NEWCOMB

February 26, 2004

VIA FAX 202-493-5032
and by Certified Mail, Return Receipt Requested

National Freedom of Information Act Staff
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Washington, DC 20591

VIA FAX 847-294-8490
and by Certified Mail, Return Receipt Requested

Ms. Vickie Morris, FOIA Coordinator
FAA Great Lakes Region, AGL-4
2300 E. Devon Avenue
Des Plaines, IL 60018

Re: Freedom of Information Act Request

Dear FOIA Coordinators:

Pursuant to the Freedom of Information Act (FOIA), on behalf of St. John's United Church of Christ, Helen Runge, Shirley Steele, the Rest Haven Cemetery Association, Robert Placek, Leroy Heinrich, and Roxanne Mitchell, I hereby request the following information described in this letter. The Suburban O'Hare Commission has previously made a FOIA request as a representative of these requestors, but I am making this request so that the record is absolutely clear that these specific requestors have made this FOIA request.

On behalf of these requestors, I request the opportunity to inspect and examine all documents in the possession of the Federal Aviation Administration national, regional and district offices relating to the following categories of information. By "documents" we mean to include electronic and computer files and programs, electronic graphics, computer data and e-mail, as well as paper material:

1. **All documents relating to the proposed project entitled "O'Hare Modernization Program" ("OMP") proposed by the City of Chicago.** This category includes, but is not limited to, all documents relating to the Airport Master Plan, the Environmental Impact Statement (EIS) and the Airport Layout Plan for the OMP, and includes all documents relating to the estimated costs of the OMP, cost/benefit analyses (whether included in or not included in the NEPA review), passenger/aircraft forecasts, the prospective financing of the OMP, the scheduling of the OMP, and the scheduling of the EIS, the Master Plan, and the

FAA decisionmaking process. This category also includes all computer simulation programs, computer input and output, and CAD files relating to the OMP.

2. **All documents relating to the "World Gateway" project at O'Hare, including documents relating to its present and projected status and implementation.** This includes all documents relating to the World Gateway project as it relates to the OMP project.

3. **All documents relating to the National Plan for Integrated Airport System (NPIAS) and any state or regional plan as they are related to the State of Illinois and/or commercial air carrier airports in the six county Chicago metropolitan area.** This request focuses specifically on the statement in the Record of Decision (ROD) in the 1984 O'Hare EIS:

> "Development of another air carrier airport to serve the Chicago Metropolitan Area <u>will be studied as part of a State System Plan</u> to be prepared by the Illinois Department of Transportation under a series of grants to be funded by the FAA's Airport Improvement Program. The initial grant was issued in September 1984."
>
> 1984 FAA ROD at 4.

This request seeks documents relating to that State System Plan and the relationship of that State System Plan to the current O'Hare Master Plan as well as any subsequent State System Plan that encompasses commercial airports in the metropolitan Chicago area.

This request also seeks all documents that relate to the inclusion of development projects at O'Hare and Midway in the Illinois State System Plan, the Field Formulation of the National Plan of Integrated Airport Systems and in the FAA's National Priority System.

4. **All documents relating to the post 2000 Delay Task Force at O'Hare.** With the exception of category 3, this request is limited to documents generated in the last 5 years.

5. **Paper and/or electronic file indices and electronic scanned images.** All file indexes or file databases relating to the organization of files and documents maintained by the FAA relating to the O'Hare Modernization Program, the World Gateway Program, or to the categories of information requested in this FOIA request. We are also requesting electronic copies of any scanned images of the

documents requested in this letter. It is our understanding that electronic computerized indices of some or all of the documents being requested in this letter are being maintained by FAA. Further, we understand that some or all of the documents being requested in this letter have been scanned by FAA or its contractor and are maintained in a scanned, electronic format.

We are *not* asking for copies of these documents at this time. We only wish to inspect them and we will scan at your offices any documents of which we want copies. As to electronic documents, we will arrange with you to have copies transferred to CD disks.

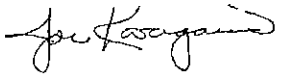
Further, we do not want to wait until all of the documents from all of the categories listed above are assembled. Nor do we wish to wait until each office within FAA is examined.

If the FAA proposes to withhold any documents requested in this letter on any basis, including any claimed exemption under the Freedom of Information Act, we request that the FAA prepare and provide us with an index of documents excluded from disclosure.

Please get back to me as to when documents within any of these categories of documents are available for inspection.

Please understand that the requestors here believe that they have independent rights (*i.e.*, independent of FOIA) to examine the documents requested in this letter as part of FAA's responsibilities to these requestors under the Due Process Clause and basic rules of administrative procedure. By making this FOIA request, the requestors are not waiving the assertion of these independent rights. These requestors are simply making certain that the record is clear that access to these documents to these requestors has been denied by the FAA. FAA has already effectively denied these requests by the Suburban O'Hare Commission by withholding these documents from inspection for more than one year.

Sincerely yours,



Joseph Karaganis

cc: Mr. Andrew B. Steinberg
Chief Counsel FAA
Mr. Robert Cohn

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June 22, 2005

VIA E-MAIL
Mr. Barry Cooper
Chicago Area Modernization Program Office
AGL-1CM
FAA Great Lakes Region
2300 E. Devon Avenue
Des Plaines, Illinois 60018

Re: ASV calculations and documents

Dear Barry:

This letter is in further correspondence as to documents that are encompassed within the scope of our existing FOIA requests but which have not been produced.

A. ASV Calculations:

On May 26, I sent you an e-mail (enclosed) asking for any documents and calculations and documents relating to "ASV" calculations for either the existing O'Hare and for any build options — as well as for the ASV calculations for other Chicago regional airports as described in Appendix C.

As I stated in my e-mail, we also know that ASV calculations were performed for both the existing O'Hare airport and the OMP option(s) in the FAA 2004 report *Capacity Needs in the National Airspace System* FAA/MITRE 2004)

Further, in the FAA's *Portfolio of Goals* the following statement is made under the Topic Heading "**Annual Service Volume**":

> Delay curves were developed for each of the 35 OEP airports for the existing airport layout and with new runways where proposed. Based on an acceptable level of delay, the number of operations that can reasonably be expected to occur at the airport were determined. A consistent calculation technique to estimate capacity was used for all airports.

Further, some sort of ASV calculation was used to calculate delay and capacity for the 2005-2009 NPIAS report which states that the AAAW delay at O'Hare is 7 minutes.

> The Annual Service Volume (ASV), at a particular level of delay, is used to measure airfield capacity at individual airports. Traditionally, a delay of four to six minutes per aircraft operation is used in ASV calculations. The relationship between aircraft operations and delay is non-linear, and often exponential. Experience shows that airfield delay increases gradually with rising levels of traffic until a certain level is reached. Thereafter, the delay rises more rapidly with increased traffic. For larger airports, it is our observation that the onset of the more rapid growth in delay often occurs when delay is between 4 and 6 minutes per aircraft operation.

NPIAS p. 12

The 2005-2009 NPIAS report (issued in September 2004) goes on the state that:

> "Table 4 lists the average minutes of delay per operation for 35 airports contained in the FAA's OEP"

NPIAS p. 14

In that Table the AAAW delay for O'Hare is listed as 7 minutes. We are seeking both the ASV and delay calculations for O'Hare and for the other OEP airports in Table 4 of the 2005-2005 NPIAS that were used in the 2005-2009 NPIAS. In particular — as to the other airports in Table 4 of the 2005-2005 NPIAS we wish to examine what delay levels (*e.g.*, minutes of AAAW) were used to calculate ASV for these airports.

We also believe that ASV calculations were made for O'Hare (both existing and at least Phase One of OMP) for the preparation of the NPIAS submission(s) that were developed at either the District and/or Great Lakes Region for inclusion in the 2005-2009 NPIAS. Presumably, these ASV and related delay and capacity analyses were used in developing the

Please make available the documents relating to ASV and related delay and capacity assessments for existing O'Hare and OMP, as well as the ASV's for the other airports in Appendix C of the DEIS and the OEP airports listed in Table 4 of the 2005-2009 NPIAS.

B. Materials from 2004 report *Capacity Needs in the National Airspace System* FAA/MITRE 2004)

We agreed in our discussion last Friday that the documents generated and used in the 2004 report *Capacity Needs in the National Airspace System* FAA/MITRE 2004) (hereafter the "MITRE Report") contained significant amounts of information relating to O'Hare and OMP. Among the areas of the MITRE Report that are encompassed within our previous FOIA request are:

1. Documents from the so-called Future Airport Capacity Task Force (FACT) that relate to any assessments of O'Hare and Midway (*i.e.*, either O'Hare individually or as a part of a system with Midway) to meet metropolitan demand. MITRE Report at p. 1

2. The calculation of ASV for O'Hare (both existing and various phases of OMP) and for Midway. Of particular interest are the average delay values that were used in calculating ASV for each of the OEP airports and the level of delay used for ASV for Midway and O'Hare (both existing and various phases of OMP) See p 26 of the MITRE Report.

3. The documents and data that are the basis for the statement at p. 10 of the MITRE Report that:

> Aggressive assumptions for the airfield reconfigurations at ORD and PHL were used in the 2020 analysis. Using these assumptions the airports are expected to have sufficient capacity to meet demand growth.
>
> ***
>
> The reconfiguration of ORD and the construction of a new runway at PBI will add sufficient capacity to satisfy expected demand levels in the Chicago and South Florida metropolitan areas.
>
> MITRE Report at p. 10

4. The statement is made at p. 21 of the MITRE Report that the FACT analysis team updated the FAA's *Airport Capacity Benchmark Report* ("as part of the FACT analysis") MITRE further states at p. 22: "To produce the capacity estimates necessary for the FACT analysis the team utilized the Enhanced Airfield Capacity Model (E-ACM). The E-ACM is a MITRE-developed update of the widely used FAA Airfield Capacity Model." We wish to examine all documents that relate to the development of the "updated benchmark report" that was developed by the FACT team. Of particular interest are documents relating to the level of delay (if any) that was used as a variable or factor in determining the capacity values used in the updated *Airport Capacity Benchmark Report*.

5. The MITRE Report at p. 13 states that MITRE modeled both existing O'Hare and various versions of OMP by means of an NAS-wide simulation model. We wish to examine documents relating to this modeling effort as it related to O'Hare.

6. The MITRE Report at p. 14 states that MITRE performed calculations as to the capacity of both existing O'Hare and various versions of OMP by means of "extrapolation of historical data" We wish to examine documents relating to this analytical effort as it related to O'Hare.

7. The MITRE Report at p. 14 states that MITRE performed "socio-economic demand modeling" for the Chicago metropolitan area, including O'Hare and

Midway. (See also MITRE Report at 24) We wish to examine documents relating to this modeling effort.

8. The MITRE Report at pp. 26-27 says that an NAS-Wide Simulation of Airport Delay was used to calculate delays at existing O'Hare as well as delays at various OMP stages. We wish to examine all documents relating to this modeling effort and its results.

9. The MITRE Report at p. 27 states that "capacity-related delay estimates" were made comparing existing O'Hare and future iterations of OMP. We wish to examine all documents relating to this analytical effort.

C. Documents relating to the preparation of the submission By the Chicago District, Great Lakes Region, and FAA Headquarters relating to the inclusion of OMP elements in the 2005-2009 NPIAS and related National Priority System

It is clear from the 2005-2009 NPIAS that FAA has made a determination that Phase One of the OMP meets the requirements of 49 U.S.C. §47103:

> "The [NPIAS] plan shall include the kind and estimated cost of eligible airport development the Secretary of Transportation considers necessary to provide a safe, efficient, and integrated system of public-use airports adequate to anticipate and meet the needs of civil aeronautics"
>
> 49 U.S.C. §47103 (emphasis added)

FAA has included the purported $2.9 billion cost of Phase One in the 2005-2009 NPIAS as "eligible airport development the Secretary of Transportation considers necessary to provide a safe, efficient, and integrated system of public-use airports adequate to anticipate and meet the needs of civil aeronautics."

There must have been documents generated at the Chicago District office, the Great Lakes Region, and FAA Headquarters relating to the reasons why FAA determined that OMP Phase One met the requirements of §47103. Similarly, there must be documents that relate to possible inclusion of Phase One in the related National Priority System and NPIAS-ACIP database.

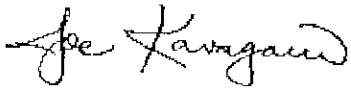
We have specifically asked for these documents in our prior FOIA requests:

> "This request also seeks all documents that relate to the inclusion of development projects at O'Hare and Midway in the Illinois State System Plan, the Field Formulation of the National Plan of Integrated Airport Systems and in the FAA's National Priority System."

None of the documents provided thus far include the documents relating to the inclusion of Phase One in the NPIAS and the inclusion of Phase One in the National Priority System-ACIP process.

Please get back to me as soon as possible as to when these documents will be available. To the extent these documents are in electronic format, I ask that these documents be transmitted to me immediately.

Sincerely yours,



Joseph Karaganis

cc: Mr. Robert Cohn
Mr. Joseph Del Balzo