

PRIVILEGED AND CONFIDENTIAL

**APPENDIX OF EXHIBITS TO REPORT OF
INVESTIGATION OF DISPLAY OF FLIGHT PATH
CHART AT PUBLIC HEARINGS ON SEPTEMBER 8
AND 22, 2004 BEFORE THE MARCH JOINT POWERS
AUTHORITY
[VOLUME 3 OF 5 VOLUMES]**

January 30, 2006

Prepared for the March Inland Port Airport Authority

Leonard L. Gumport, Esq.
Gumport | Reitman
550 South Hope St. Ste. 825
Los Angeles, CA 90071
(213) 452-4901

Attorney-Client Privileged & Confidential Communication

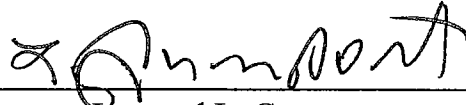
PRIVILEGED AND CONFIDENTIAL

Gumport|Reitman hereby submits volume three of the appendix (consisting of five volumes) to the report of the investigation of the display of a flight path map at public hearings on September 8 and 22, 2004 before the March Joint Powers Authority.

DATED: January 30, 2006

Respectfully submitted,

GUMPORT | REITMAN

By: 

Leonard L. Gumport
Special Counsel to March Inland Port
Airport Authority

INDEX TO APPENDIX OF EXHIBITS TO REPORT OF INVESTIGATION
[FIVE VOLUMES]

| Tab No. | Description |
|-----------------|--|
| VOLUME 1 | |
| 1 | 1/27/05 Press-Enterprise article entitled "Flight map called misleading" [internet-retrieved] |
| 2 | Flight path map prepared by Gregory Diodati of March Globalport and provided by him to Daniel Fairbanks of March Joint Powers Authority ("March JPA") in or about August 2004 (and used by Fairbanks to prepare Exhibits 35 (and 49)) for display at public hearings of March JPA Commission on September 8 and 22, 2004) |
| 3 | 9/20/04 email from Mary K. Stracke of Best Best & Krieger LLP ("BBK") to nmiller@hmmh.com of Harris Miller Miller & Hanson ("HMMH") (cc: John Nelson of Best Best & Krieger) re March JPA - second map, with attached flight path map |
| 4 | SKYES Eight Departure Route Description for March ARB (KRIV) in Riverside County, California - standard instrument departure route description as published in Department of Defense ("DOD") Flight Information Publication re Radar Departure Route Description, effective 9/30/04 [A copy of the SKYES Eight Departure Route Description is included in Interview Ex. No. 10 used at witness interviews in Appendix Volume 5.] |
| 5 | Departure Flight Tracks Chart prepared by Mead & Hunt in 4/05 [This document is the same as Interview Ex. No. 5 used at witness interviews in Appendix Volume 5.] |
| 6 | Draft Chart prepared by Mead & Hunt in 8/05 [This document is the same as Interview Ex. No. 13 used at witness interviews in Appendix Volume 5.] |
| 7 | Federal Interagency Committee on Aviation Noise ("FICAN") article entitled "Effects of Aviation Noise on Awakenings from Sleep", dated 6/97 [internet-retrieved] |
| 8 | <u>Berkeley Keep Jets Over The Bay Committee v. Board of Port Commissioners</u> , 91 CalApp.4th 1344 (2001) - California decision re utility of SENEL study in aviation noise litigation |
| 9 | FICAN article entitled "The Use of Supplemental Noise Metrics in Aircraft Noise Analyses", dated 2/02 [internet-retrieved] |
| 10 | HMMH Corporate Information re its aviation noise consulting business (internet-retrieved) |

| Tab No. | Description |
|---------|--|
| 11 | HMMH Product data re its Real Contours Noise Modeling Program (internet-retrieved) |
| 12 | HMMH appendix entitled "Introduction to Acoustics and Noise Terminology," excerpt from noise report by HMMH re Mather Airport in Sacramento County, dated 9/12/03 (internet-retrieved) |
| 13 | BBK invoice for the period 7/1/04 through 7/31/04 |
| 14 | 7/30/04 email from ereindel@hmmh.com of HMMH with thread |
| 15 | BBK invoice for the period 7/28/04 through 8/31/04 |
| 16 | 8/6/04 email from G. Diodati to ereindel@hmmh.com of HMMH with thread |
| 17 | 8/6/04 email from G. Diodati to ereindel@hmmh.com of HMMH with thread |
| 18 | 8/6/04 email from ereindel@hmmh.com of HMMH to Gregory Diodati with thread |
| 19 | 8/7/04 email from G. Diodati to mentzer@hmmh.com of HMMH with thread |
| 20 | 8/6/04 HMMH CNEL Study - HMMH memorandum from Gene Reindel, Bob Mentzer, Sarika Gupya to Greg Diodati (cc: Scott Barker, Dan Fairbanks) [This document is the same as Interview Ex. No. 11 used at witness interviews in Appendix Volume 5.] |
| 21 | 8/10/04 email from Gregory Diodati to Dan Fairbanks with thread |
| 22 | 1/23/06 correspondence from Gabrielle Mankin to Leonard Gumport re 8/18/04 meeting sign-in sheets re Orangecrest/Mission Grove Neighborhood meeting |
| 23 | 1/22/06 email from Gabrielle Mankin to Leonard Gumport re DHL flight path investigation |
| 24 | 1/20/06 email from CBFCentury@aol.com to Leonard Gumport re 8/18/04 Orangecrest/Mission Grove Neighborhood meeting |
| 25 | 8/31/04 email from Dan Fairbanks to Gregory Diodati, Lori Stone with thread |
| 26 | BBK invoice for the period 9/1-30/04 [This document is the same as Interview Ex. No. 16 used at witness interviews in Appendix Volume 5.] |
| 27 | 9/1/04 letter from Barrington A.S. Daltrey, Esq. to March JPA re Notice of Intent to Adopt a Mitigated Negative Declaration |

| Tab No. | Description |
|-----------------|---|
| 28 | 9/4/04 email from Gregory Diodati to Dan Fairbanks re Mission Grove Presentation, with attachments that include flight path chart subsequently used by Daniel Fairbanks [This document is the same as Interview Ex. No. 30+ used at witness interviews in Appendix Volume 5.] |
| 29 | 9/6/04 Press-Enterprise article entitled "Cargo facility poses concerns" [This document is the same as Interview Ex. No. 4 used at witness interviews in Appendix Volume 5.] |
| 30 | 9/6/04 Press-Enterprise article entitled "Cargo Facility poses concerns" [internet-retrieved] |
| 31 | 9/7/04 memorandum from L. John Nelson of BBK to Michelle Ouellette of BBK |
| 32 | 9/8/04 draft Indemnification Agreement Between March JPA and March Inland Cargoport Development, LLC |
| 33 | 9/8/04 email from Gregory Diodati to john@johnhusing.com (John Husing) and Dan Fairbanks re presentations |
| 34 | Revised flight path chart prepared by Gregory Diodati of March Globalport [This document is the same as Interview Ex. No. 12 used at witness interviews in Appendix Volume 5.] |
| 35 | Flight path chart displayed by Daniel Fairbanks at public hearings of March JPA on September 8 and 22, 2004 (using chart provided to Fairbanks by Greg Diodati) [This document is the same as Interview Ex. No. 6 used at witness interviews in Appendix Volume 5.] |
| 36 | 9/8/04 - Transcript of Special Meeting of the March Joint Powers Commission of the March JPA |
| VOLUME 2 | |
| 37 | 9/9/04 Press-Enterprise article entitled "Fire marshal closes cargo port hearing" [internet-retrieved] |
| 38 | 10/1/04 email from John Nelson of BBK to Steve Anderson of BBK with thread re flight track description with attachment [This document is the same as Interview Ex. No. 24 used at witness interviews in Appendix Volume 5.] |
| 39 | 9/13/04 letter from Eugene Reindel of HMMH to Gregory Diodati re nighttime flights at March Air Reserve Base |
| 40 | 9/17/04 Press-Enterprise article entitled "Riverside County, Calif.'s most influential businessmen lure shipping firm DHL" [internet-retrieved] |

| Tab No. | Description |
|----------------|---|
| 41 | 9/17/04 email from Mary K. Stracke of BBK to John Nelson of BBK re Nick Miller - March JPA |
| 42 | 9/20/04 email from Dan Fairbanks to Mary K. Stracke of BBK with thread re March JPA - Flight Path Map, with attachment showing flight path based on chart from Diodati |
| 43 | 9/20/04 email from Mary K. Stracke of BBK to John Nelson of BBK re March JPA - second map, with attachment showing flight path based on chart from Diodati and handwritten notes by John Nelson of BBK showing location of Oragecrest and Mission Grove neighborhoods |
| 44 | 9/20/04 letter from Barrington A.S. Daltrey, Esq. to March JPA Commissioner Frank Schiavone re Pending Cargo Carrier Application/Negative Declaration Meeting |
| 45 | 9/21/04 Press-Enterprise article entitled "Orangecrest residents object to DHL proposal" [internet-retrieved] |
| 46 | 9/21/04 email from Dan Fairbanks to Natalie Mayberry with thread re 9/8/04 JPA hearing, with attachment [This document is the same as Interview Ex. No. 31 used at witness interviews in Appendix Volume 5.] |
| 47 | 9/22/04 Press-Enterprise article entitled "Three choices for one reward" [internet-retrieved] |
| 48 | Revised flight path chart prepared by Greg Diodati of March Globalport and displayed by him at September 8 and 22, 2004 public hearings [This document is the same as Interview Ex. No. 12 used at witness interviews in Appendix Volume 5.] |
| 49 | Flight path chart displayed by Daniel Fairbanks at public hearings of March JPA on September 8 and 22, 2004 (using chart provided to Fairbanks by Gregory Diodati) [same as Exhibit 35] [This document is the same as Interview Ex. No. 6 used at witness interviews in Appendix Volume 5.] |
| 50 | 9/22/04 - Transcript of Special Meeting of March Joint Powers Commission of the March Joint Powers Authority |
| 51 | 9/22/04 Resolution #JPA 04-12 of the Joint Powers Commission of the Joint Powers Authority |
| 52 | 9/22/04 Action Item - Joint Public Hearing, Agenda Item No. 7(a) of the March Joint Powers Planning Commission |
| 53 | 9/23/04 Press-Enterprise article entitled "March Air Reserve Base panel backs cargo hub plan for Riverside, Calif. site" [internet-retrieved] |

| Tab No. | Description |
|-----------------|---|
| 54 | 9/24/04 Press-Enterprise article entitled "Site decision by DHL remains up in the air" [internet-retrieved] |
| 55 | 9/28/04 email from John Nelson of BBK to Michelle Ouellette and Steve Anderson of BBK with thread, with attachments [This document is the same as Interview Ex. No. 18 used at witness interviews in Appendix Volume 5.] |
| 56 | 9/29/04 Indemnification Agreement Between March Joint Powers Authority and MARHUB, LLC |
| 57 | 9/30/04 Press-Enterprise article entitled "DHL mulls night flight limit" [internet-retrieved] |
| 58 | 9/30/04 email from John Nelson of BBK to Steve Anderson of BBK, with attachment [This document is the same as Interview Ex. No. 19 used at witness interviews in Appendix Volume 5.] |
| 59 | 9/30/04 email from John Nelson of BBK to ereindel@hmmh.com of HMMH with thread, with attachment [This document is the same as Interview Ex. No. 20 used at witness interviews in Appendix Volume 5.] |
| 60 | 9/30/04 email from ereindel@hmmh.com of HMMH to John Nelson of BBK with thread [This document is the same as Interview Ex. No. 21 used at witness interviews in Appendix Volume 5.] |
| VOLUME 3 | |
| 61 | 9/30/04 email from Dan Fairbanks to John Nelson of BBK re holding pattern, with attachment |
| 62 | 9/30/04 email from John Nelson of BBK to Steve Anderson of BBK with thread, with attachment [This document is the same as Interview Ex. No. 22 used at witness interviews in Appendix Volume 5.] |
| 63 | 9/30/04 email from John Nelson of BBK to Steve Anderson of BBK with thread, with attachment [This document is the same as Interview Ex. No. 23 used at witness interviews in Appendix Volume 5.] |
| 64 | 9/30/04 HMMH SENEL Study - memorandum from Gene Reindel, Bob Mentzer, Nick Miller to Greg Diodati re March ARB SENEL Contours, with attachments [This document is the same as Interview Ex. No. 8 used at witness interviews in Appendix Volume 5.] |
| 65 | BBK invoice for the period 10/1/04 through 10/31/04 [This document is the same as Interview Ex. No. 17 used at witness interviews in Appendix Volume 5.] |

| Tab No. | Description |
|---------|---|
| 66 | 10/1/04 email from John Nelson of BBK to Steve Anderson of BBK with thread that includes 10/1/04 email from Greg Diodati to Dan Fairbanks, Rob Bower, Esq. (Rutan & Tucker), and John Nelson, Esq. (BBK), with attached chart prepared by Greg Diodati showing variations in flight path [This document is the same as Interview Ex. No. 24 used at witness interviews in Appendix Volume 5.] |
| 67 | 10/1/04 email from John Nelson of BBK to Michelle Ouellette of BBK with thread, with attachment re proposed language for 10/1/04 letter [This document is the same as Interview Ex. No. 15 used at witness interviews in Appendix Volume 5.] |
| 68 | 10/1/04 letter from Gregory Diodati to Dan Fairbanks re March ARB Single Event Noise Analysis, with attached HMMH SENEL study dated 9/30/04 [This document is the same as Interview Ex. No. 3 used at witness interviews in Appendix Volume 5.] |
| 69 | 10/3/04 Press-Enterprise article entitled "Group works to divert cargo hub" [internet-retrieved] |
| 70 | 10/1/04 "Response to Comments on Mitigated Negative Declaration" |
| 71 | 10/6/04 Transcript of Regular Meeting of the March Joint Powers Commission of the March Joint Powers Authority, etc. |
| 72 | March Joint Powers Authority - Mitigated Negative Declaration |
| 73 | 10/6/04 March Joint Powers Authority - Notice of Determination |
| 74 | 10/7/04 Press-Enterprise article entitled "GlobalPort pact approved" [internet-retrieved] |
| 75 | 10/10/04 Press-Enterprise article entitled "It's all good" [internet-retrieved] |
| 76 | 11/5/04 Daily Bulletin article entitled "Group sues to block hub" [internet-retrieved] |
| 77 | 10/21/04 letter from Barrington A.S. Daltrey, Esq. to March Joint Powers Authority re Mitigated Negative Declaration |
| 78 | Petition/Complaint for Writ of Mandamus, Taxpayer Relief, Injunctive Relief and Declaratory Relief, filed 11/5/04 in Superior Court of California, County of Riverside Case No. RIC 420990, captioned <u>Center for Community Action and Environmental Justice v. March Joint Powers Authority, etc.</u> |
| 79 | 12/11/04 Press-Enterprise article entitled "DHL picks March ARB" [internet-retrieved] |

| Tab No. | Description |
|-----------------|--|
| 80 | Notice of Motion and Motion for Judgment on the Writ, filed 1/5/05 in Superior Court of California, County of Riverside Case No. RIC 420990, captioned <u>Center for Community Action and Environmental Justice v. March Joint Powers Authority, etc.</u> |
| VOLUME 4 | |
| 81 | 3/10/05 email from Gregory Diodati to schiavonefrank@aol.com (Commissioner Frank Schiavone) with thread, with attachment |
| 82 | Petitioner's Opening Brief on Their Petition for Writ of Mandamus, etc., dated 2/4/05 in Superior Court of California, County of Riverside Case No. RIC 420990, captioned <u>Center for Community Action and Environmental Justice v. March Joint Powers Authority, etc.</u> |
| 83 | Declaration of Barrington A.S. Daltrey, Esq. in Support of Petition, etc., dated 2/8/05 in Superior Court of California, County of Riverside Case No. RIC 420990, captioned <u>Center for Community Action and Environmental Justice v. March Joint Powers Authority, etc.</u> |
| 84 | 3/05 HMMH Technical Report on Preparation of Day-Night Average Sound Level (DNL) Contours of Aircraft Noise etc., prepared by HMMH for Raleigh-Durham Airport Authority |
| 85 | Ruling on Submitted Matter, filed 3/22/05 in Superior Court of California, County of Riverside Case No. RIC 420990, captioned <u>Center for Community Action and Environmental Justice v. March Joint Powers Authority, etc.</u> |
| 86 | Draft Settlement Agreement re Superior Court of California, County of Riverside Case No. RIC 420990, captioned <u>Center for Community Action and Environmental Justice v. March Joint Powers Authority, etc.</u> |
| 87 | Judgment Denying Petition for Writ of Mandate, filed 5/2/05 in Superior Court of California, County of Riverside Case No. RIC 420990, captioned <u>Center for Community Action and Environmental Justice v. March Joint Powers Authority, etc.</u> |
| 88 | 9/27/05 Press-Enterprise article entitled "Flight map called misleading" [internet-retrieved] |
| 89 | 9/28/05 Press-Enterprise article entitled "Officials to press flight map changes" [internet-retrieved] |
| 90 | 9/28/05 letter from March JPA Commissioner Frank Shiavone to Greg Diodati and Ben Shearer re DHL operations out of March Air Reserve Base |
| 91 | 10/20/05 Press-Enterprise article entitled "Probe approved on DHL flight route" [internet-retrieved] |

