

ED CASE

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Congress of the United States
House of Representatives
Washington, DC 20515-1101

COMMITTEE ON APPROPRIATIONS
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MILITARY CONSTRUCTION, VETERANS AFFAIRS AND
RELATED AGENCIES
COMMERCE, JUSTICE, SCIENCE AND
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NATIONAL PARKS, FORESTS AND PUBLIC LANDS
WATER, OCEANS AND WILDLIFE
INDIGENOUS PEOPLES OF THE UNITED STATES

December 24, 2019

Subject: Update on Tour Helicopter/Small Aircraft Safety and Community Disruption Concerns

Aloha! My staff and I have truly appreciated our partnership with you throughout 2019 and wish you and yours the very best of the Holidays and New Year.

Over this year we have addressed with you our community's serious and worsening safety and community disruption concerns with still-increasing tour helicopter and small aircraft operations throughout all of Hawai'i. On O'ahu, both the Honolulu City Council and at last count fully 19 of our 34 active Neighborhood Boards have now passed resolutions confirming those concerns and calling on our elected officials to implement effective regulations on such operations.

In response, I wanted to update you on my own efforts:

- (1) Safe and Quiet Skies Act. As you know, in September I introduced in the U.S. House H.R. 4547, my Safe and Quiet Skies Act, which would impose substantially increased restrictions nationwide on tour helicopter/small aircraft operations and provide state and local communities with authority to impose further regulation tailored to their own situations. My bill summary and remarks on introduction are attached. My bill is pending in the House Transportation and Infrastructure Committee and is one of a number of bills introduced by members of my House Quiet Skies Caucus, all of whom have serious issues with out-of-control ground noise and community from aircraft operations. We recently met with the Administrator of the Federal Aviation Administration (FAA), which is responsible for administering our country's airspace, to urge FAA to prioritize community disruption. Thus far the FAA has not done so either nationwide or in Hawai'i, and it may take broader legislation to mandate this priority for FAA.
- (2) Current State and Local Regulatory Authority. A key question in addressing our concerns is whether under existing federal law state and local jurisdictions can regulate tour helicopter and small aircraft operations. I wrote the FAA asking for its view; the FAA's response of October 31st is attached. FAA basically takes the position that under existing law the zone of state and local regulation is very limited. However, there are some exceptions which I am pursuing with our state and local governments. Ultimately, though, it appears that it would take changes in federal law or regulations such as my Safe and Quiet Skies Act to give our state and local governments the full flexibility we need to fully address our safety and community disruption concerns if our federal government continues not to act on them.

- (3) FAA Flight Paths Over O'ahu Communities. In discussing our safety and community disruption concerns with the tour helicopter/small aircraft operators, in particular low-flying aircraft over residential communities and other especially noise-sensitive areas such as parks and cemeteries, the operators often maintain that "they had to fly there because of FAA flight path requirements." I therefore asked FAA whether this was true. FAA's response of October 25th is attached. As you can see, that is not true for most of O'ahu, where tour helicopters/small aircraft essentially can and do fly wherever they want to with no real regard for community concerns. However, the FAA has very specific routes for departure from and arrival back at Honolulu International Airport (HNL) which require very low altitude flying directly over residential neighborhoods and other sensitive areas even though alternatives like departure and approach to/from the ocean are available. On December 3rd I wrote FAA (copy attached) to note the severe impacts of these departure/approach routes on communities next to or near HNL and to ask for a full review on route alternatives to mitigate concerns. I am awaiting a response.
- (4) Restriction of Tour Helicopter/Small Aircraft Operations Over Hawaii's Commercial Harbors. The Director of the Hawai'i State Department of Transportation wrote me to express concerns with low-flying operations over Honolulu Harbor and Hawaii's other commercial harbors endangering safety and security and disrupting harbor operations. On December 3rd I wrote FAA (copy attached) to endorse those concerns and ask FAA to cease any such operations over Hawai'i harbors. I am awaiting a response.
- (5) Restriction of Tour Helicopter/Small Aircraft Operations Over Pearl Harbor. The Navy expressed safety and security concerns with tour helicopter/small aircraft operations over Pearl Harbor. Independently, the managers of our precious Pearl Harbor National Memorial, including the USS Arizona, Oklahoma and Utah memorials and visitors center, and many veterans and other community groups and visitors to the memorial have expressed constant and increasing concerns with tour helicopter operations over Pearl Harbor destroying the solemnity and sanctity of the memorial. On December 12th I wrote FAA (copy attached) asking that no tour helicopter/small aircraft operations over Pearl Harbor be authorized and further that any approaches to or departures from HNL be routed to/from the ocean and not over the communities next to or near Pearl Harbor. I am awaiting a response
- (6) Required Automatic Dependent Surveillance-Broadcast (ADS-B) Out Equipment On All Tour Helicopter/Small Aircraft Statewide. A critical missing link in identifying aircraft operations and enforcing any rules, regulations or agreements is effective technology to track specific operations in live time. ADS-B equipment on aircraft allows for lifetime tracking of operations as to identity of aircraft, route, altitude and speed (which is publicly available through apps like FlightRadar24). ADS-B is now installed on many tour helicopters and small aircraft, but many other have avoided installation (I believe because they don't want to be easily tracked). As of January 1st of the upcoming year ADS-B is required on all O'ahu flights, but it appears this requirement was not imposed on operations on other islands. On December 3rd I wrote FAA (copy attached) to ask that the ADS-B requirement be imposed on all flights statewide. I am awaiting a response.

- (7) Air Tour Management Plans for Hawaii's National Parks. The National Parks Air Tour Management Act of 2000 was a response to tour helicopters/small aircraft overrunning our nation's most treasured natural resources, destroying their peace and tranquility. These include Hawai'i Volcanoes National Park and Haleakala National Park, each of which suffers from literally thousands of overflights per year. The 2000 law requires air tour management plans (ATMPs) to include specific restrictions. Yet it has still not been implemented as to either ATMPs or the alternative of voluntary agreements (VA). In response to many concerns from affected community as well as Congress (including me through my membership on the House Natural Resources Committee), FAA and the National Park Service (NPS) recently announced that they were proceeding with the establishment of ATMPs or VAs at seven of our parks. Yet inexplicable these did not include Hawai'i Volcanoes or Haleakala. On December 9th I wrote FAA and NPS (copy attached) to specifically ask that they be included. I am awaiting a response.
- (8) Helicopter Industry Communications. In early October the Helicopter Association International (HAI), the national trade organization of the helicopter industry including here the Hawai'i Helicopter Association, invited me to attend its "Hawai'i Air Tour Informational Forum" at HNL on October 28th. On October 8th I wrote back (copy attached) to express concerns that the public was not included. HAI's response was that this was intended as a preliminary meeting to "set the framework for future meetings and dialogue to occur within the broader community." I wrote a further letter (copy attached) which was read by my staff to all participants at the October 28th meeting. HAI's response only discussed formation of a "task force" with an intended public meeting tentatively for the first part of January. I have heard nothing further from HAI.

Going forward, I will be following up on all of these fronts. These include communications with my state and county government colleagues as to efforts we can all pursue to curb the tour helicopter/small aircraft industry's unacceptable and worsening abuse of the privilege of utilizing Hawaii's airspace and continued disregard for our safety and community disruption concerns. I need and welcome your continued help, including by forwarding this status report to all who share your concerns and by asking your state legislators and county councilmembers to act.

As always, I am grateful for the opportunity to serve our Hawai'i and communities and you in Congress. I truly look forward to continuing to work with you on the challenges and opportunities of 2020. If you have not yet done so, please visit my website at case.house.gov for my activities and the services of my office and sign up for my regular e-newsletter.

With aloha,



Congressman Ed Case
Hawai'i-First District

Enclosure(s)

Safe and Quiet Skies Act

Section-by-Section Summary

Section 1 - Short Title

- Safe and Quiet Skies Act

Section 2 – Requirements for Commercial Air Tour Flights

- Prohibits tour flights over military installations, national cemeteries, national wilderness areas, national parks, and national wildlife refuges.
 - Current law has no prohibitions on where tours can fly.
 - Military installations can have flight restrictions imposed based on national security concerns, but this is not uniformly applied or enforced.
 - Current law requires air tour management plans over national parks, but only the Grand Canyon National Park has one.
- Requires Automatic Dependent Surveillance-Broadcast (ADS-B) out equipment on all tour aircraft and to be utilized for the entirety of tour flights. ADS-B is a system for broadcasting and receiving aircraft identification, position, altitude, heading, and speed data derived from on-board navigation systems such as a Global Positioning System (GPS) receiver.
 - Current regulation requires air ADS-B out capability for certain aircraft by 2020 and varies on when the equipment must be in use (usually based on proximity to certain airports).
- Applies the “sterile cockpit rule” to tour flights, which requires that pilots only focus on safely operating the aircraft and would define tour-giving and narrating as outside of the duties required for safe operation.
 - The rule currently applies to commercial airlines, but not tour flights.
- Requires that tour flights always fly above 1,500 feet altitude over actual ground with very limited exceptions for emergencies.
 - Currently, there is a wide variety of regulations on the altitude requirement for tour flights and a significant amount of discretion given to the FAA to allow for deviation from altitude requirements.
- Requires tour flights over occupied areas (including residential, commercial and recreational areas) to be no louder than 55 dbA, the same level of noise commonly allowed for residential areas.
 - Current regulations outline higher noise limit requirements for FAA certification of an aircraft with multiple methods of measurement.

Section 3 – Delegated Authority to State and Local Regulators

- Allows states and localities to impose requirements (in addition to the minimum national requirements of Section 2) on tour flights.
 - FAA takes the position that under current law the scope of a state or locality's ability to impose restrictions on tour flights is very limited.

Section 4 – Public Engagement Throughout Federal and State Regulatory Process

- Requires that all regulations under this act, including updating any Air Tours Common Procedure Manual, includes public engagement.
 - Currently, FAA does not require public comment or engagement on updates to the Air Tours Common Procedures Manual, which is the current de facto regulation for tour flights.

Section 5 – Penalties

- Requires FAA to impose penalties on tour flights that violate this act including revoking certifications and permits to operate tour flights.

Section 6 – Conforming Edits

- Makes edits to current law to implement this act.
- Includes edits to ensure native tribes have the same authority as states and localities under Section 3 of this act.

Section 7 – NTSB Recommendations

- Requires FAA to implement National Transportation Safety Board (NTSB) recommendations regarding Part 135 regulations, which most tour flights fly under.
- Requires all tour flights to fly under Part 135 regulations and prohibits tour flights from flying under less restrictive Part 91 regulations.

Section 8 – Definitions

- Defines terms in the act
- Includes skydiving operations (“intentional parachuting”) under the definition of “commercial air tour.”

Title:

Introduction of the Safe and Quiet Skies Act

Hon. & Member's Official Name:

Hon. Ed Case

Full Name of Congressional State:

Hawai'i

Current Date:

Friday, September 27, 2019

Member's Name as it Appears in Official Record:

Mr. Case

****Type Extension to Remarks below, the space allotted will expand as you type****

Madame Speaker:

Today I have introduced H.R. 4547, the Safe and Quiet Skies Act, to ensure that commercial air tour flights are adequately regulated to ensure safety and address current widespread community disruption. I extend a special thanks to my colleague, Congressman Brad Sherman of California, for reintroducing this necessary measure.

The national problem of inadequately regulated commercial air tour flights has been highlighted in my own state of Hawai'i in just the last few months. We have seen three dead in the crash of a commercial air tour helicopter into a residential neighborhood and eleven more dead in the crash of a commercial skydiving plane.

These tragedies occurred amidst a rapid increase in commercial helicopter and small plane overflights of all parts of my state including residential, commercial and industrial neighborhoods, cemeteries and memorials, land and marine parks and other recreation areas, and sensitive military installations. These have disrupted whole communities with excessive noise and other impacts, destroyed the peace and sanctity of special places, increased risk to not only passengers but those on the ground, and weakened security and management of defense operations.

The Federal Aviation Administration (FAA) currently has virtually exclusive jurisdiction over these aircraft operations. Following both of these recent tragedies, the National Transportation Safety Board (NTSB), which is responsible for investigating accidents but not for direct safety regulation, strongly recommended to the FAA that safety-related regulation of commercial tour helicopters and small aircraft skydiving operations is generally insufficient.

Regarding ground disruption and risk, the FAA takes the position that its responsibility is strictly operational safety and national airspace efficiency and does not extend to ground disruption and other negative impacts. As a result, the operators, aside from strict takeoff and approach, avoidance of established flight paths and other limited circumstances, are virtually free to fly wherever, whenever and as often as they want. And they do, with little to no self-regulation.

This situation is unacceptable for both safety and community impact concerns. It is also not limited to Hawai'i, with growing concerns in other areas with high commercial tour usage, more dense populations, valuable natural resources, significant defense installations and other factors.

This bill would first require the FAA to implement the NTSB's recommended enhanced safety regulations. It would also prohibit flights over federal property that requires privacy, dignity and respect, to include military installations, national cemeteries and national parks, wildlife refuges and wilderness. It would further require the use of standard equipment to monitor the location of flights, apply the "sterile cockpit rule" to tour flights (meaning in part that the pilot could not also be the tour guide), prohibit flights lower than 1,500 feet over actual ground, and limit decibel levels to those commonly applied to operations in residential areas. Additionally, the bill would allow states, localities, and tribes to impose stricter regulations on tour flights in their jurisdictions with required public engagement.

I look forward to working with my colleagues to pass this bill into law. Thank you.

****The entries below are optional – use only if you are inserting a quoted source****

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****Type quoted SOURCE AUTHOR below****

****Insert or Type the SOURCE TEXT below****



U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of the Chief Counsel

800 Independence Ave., S.W.
Washington, D.C. 20591

October 31, 2019

The Honorable Ed Case
U.S. House of Representatives
Washington, D.C. 20515-1101

Dear Congressman Case:

Former Acting Deputy Administrator Carl E. Burleson asked me to respond to your July 25, 2019 letter, which posed several questions concerning the ability of State and local jurisdictions to regulate commercial helicopter and small aircraft operations. You requested that the responses include citations to applicable law, regulation, or policy. Below, this letter lists your questions and provides responses.

1. “Are state and local jurisdictions authorized to regulate any aspect of [commercial helicopter/small aircraft] operations, to include route, altitude, time of operation, and frequency? If so, please outline each such aspect.”

State and local jurisdictions are prohibited from regulating many aspects of aircraft operations, including route, altitude, time of operation, and frequency. Congress has vested the Federal Aviation Administration (FAA) with authority to regulate the areas of airspace use, management and efficiency; air traffic control; safety; navigational facilities; and aircraft noise at its source. 49 U.S.C. §§ 40103, 44502, and 44701-44738. In addition, a citizen of the United States has a statutory public right of transit through the navigable airspace. 49 U.S.C. § 40103(a)(2). Therefore, courts have held that Congress has preempted the field of aviation safety and airspace efficiency. *See generally City of Burbank v. Lockheed Air Terminal*, 411 U.S. 624 (1973). State and local governments may protect their citizens through land use controls and other police power measures not encroaching on FAA’s authority over aviation safety, airspace management, or aircraft operations.

Congress has also expressly preempted State and local jurisdictions from enacting or enforcing a “law, regulation, or other provision having the force and effect of law related to a price, route, or service of an air carrier....” 49 U.S.C. § 41713(b)(1). Express preemption under this statute extends only to carriers holding economic authority from the Department of Transportation pursuant to 49 U.S.C. §§ 41101-102 (certificate of public convenience and necessity), § 41301 (foreign air carrier permit), or § 40109 (an exemption from those requirements, such as an air taxi registration under 14 C.F.R. Part 298).

However, State or local governments that own or operate an airport served by a certificated air carrier are not prohibited from carrying out their proprietary powers and rights. 49 U.S.C. § 41713(b)(3). Under this exception to preemption, the airport owner or operator has

limited authority to promulgate reasonable, non-arbitrary, and non-discriminatory regulations of aircraft noise and other environmental concerns at the local level. Any such restriction would need to comply with the Airport Noise and Capacity Act (ANCA), 49 U.S.C. § 47521, *et seq.*, and 14 C.F.R. Part 161, which outline the process, analysis, and approvals required for imposing a noise or access restriction at an airport.

2. “Can state and local jurisdictions exclude or prohibit such operations within their jurisdiction?”

State and local jurisdictions have no authority to exclude or prohibit small commercial aircraft operations within their jurisdiction. *Burbank*, 411 U.S. 624 (1973); *Allegheny Airlines v. Village of Cedarhurst*, 238 F.2d 812 (2d Cir. 1956); *American Airlines v. Town of Hempstead*, 398 F.2d 369 (2d Cir. 1968), *cert. denied* 393 U.S. 1017 (1969); *San Diego Unified Port District v. Gianturco*, 651 F.2d 1306 (9th Cir. 1981), *cert. denied*, 455 U.S. 1000 (1982). *See also* ANCA, 49 U.S.C. § 47521, *et seq.*, and 14 C.F.R. Part 161.

3. “Can state and local jurisdictions regulate up to and including prohibition of operators’ leasing or other use of public airports?”

Under the *Burbank* and *Gianturco* line of cases, State or local jurisdictions have no authority to use their police powers, such as zoning, to regulate operations or aircraft noise at its source. Nor would these jurisdictions be able to use their police powers to regulate or control aeronautical access on the airport property. Generally, an aeronautical operator or business will enter into a lease agreement with the airport owner or operator, and be subject to the terms of the lease. A State or local government that owns or operates an airport has authority to regulate its leasing of airport property. However, if the airport has accepted grants through the Airport Improvement Program, it is obligated under the grant assurances to “make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.” Grant Assurance 22(a); *see also* 49 U.S.C. § 47107(a)(1).

4. “What, if any, federal statutory or regulatory changes would be necessary to allow state and local jurisdictions to take any of these actions?”

Statutory changes to Title 49, Subtitle VII of the U.S. Code would be required to take the actions described in your letter.

If I can be of further assistance, please contact me or Philip Newman, Assistant Administrator for Government and Industry Affairs, at 202-267-7322.

Sincerely,



Arjun Garg
Chief Counsel



U.S. Department
of Transportation
**Federal Aviation
Administration**

Western-Pacific Region
Office of the Regional Administrator

777 S. Aviation Blvd., Suite 150
El Segundo, CA 90245

OCT 25 2019

The Honorable Ed Case
House of Representatives
Washington, DC 20515

Dear Congressman Case:

Thank you for your letter dated September 9, 2019, in which you requested confirmation of the routes and altitudes required by Federal Aviation Administration (FAA) air traffic controllers (ATC) for commercial tour helicopters arriving and departing Daniel K. Inouye Honolulu International Airport (HNL).

Commercial tour helicopters fly in accordance with Visual Flight Rules (VFR). HNL has five departure and three arrival procedures with instructions for VFR helicopters. We have enclosed the specific flight routes and altitude requirements for each of these published procedures. The complete descriptions are also available in the FAA's Pacific Chart Supplement, beginning on page 78, at the following website link:
https://aeronav.faa.gov/afd/10oct2019/PAC_rear_10oct2019.pdf

In addition to specific control instructions given by Air Traffic Control facilities, aircraft, including helicopters, must follow all applicable Code and Regulations pertinent to their flight. In many cases, these are supplemented by additional publications, to ensure safe operations in the National Airspace System.

Thank you for the opportunity to review and respond to your inquiry. If you or a member of your staff have any questions, please contact my office at (424) 405-7000.

Sincerely,

Raquel Girvin
Regional Administrator

Enclosure

HNL VFR DEPARTURE PROCEDURES USED BY HELICOPTERS

Before taxiing, pilots shall contact clearance delivery on 121.4/281.4 and state the current ATIS [Automatic Terminal Information Service] information code and requested departure procedure. Clearance delivery will issue the departure route clearance and assign transponder code. Unless otherwise directed by ATC, pilots shall depart CLASS B via the cleared route.

Shoreline Six Departure

Departing Runway 04L/04R maintain runway heading to the H-1 Freeway. Departing Runway 08L maintain runway heading to Nimitz Highway. Turn right, parallel Nimitz Highway proceeding direct to the center of Honolulu Harbor. Fly within ½ mile offshore passing abeam Kewalo Basin then within ½ mile of the shoreline until south of Diamond Head. Turn left and resume own navigation remaining within 2 miles of the shoreline until departing Class B. Helicopters maintain at or below 500 feet. Departure Control frequency will be 124.8/317.6.

Freeway Two Departure

Depart Runway 04L or Runway 04R on runway heading to Moanalua Freeway (State Highway 78/Interstate Highway H201), or depart runway 08L and turn left to fly parallel to runway 04L to Moanalua Freeway. Then turn RIGHT to follow Moanalua Freeway eastbound to H-1 Freeway and Kalanianaʻole Highway until passing abeam Koko Head. Departure Control frequency will be 124.8/317.6. Helicopters maintain at or below 1000 feet.

Redhill Two Departure

Depart Runway 04L/04R on runway heading to Moanalua Freeway (State Highway 78/Interstate Highway H-201) or depart Runway 08L and turn left to parallel Runway 04L to Moanalua Freeway. Then turn left and follow Moanalua Freeway northwest bound until departing Class B. Departure control frequency will be 119.1/239.05. Helicopters maintain at or below 1000 feet. CAUTION: VFR traffic proceeding inbound from the H-1/H-2 Interchange descending out of 2000 feet.

Kona Five Departure

Departure control frequency will be 124.8/317.6. Helicopters depart the south ramp and proceed direct to HNL VORTAC; do not overfly any runways. From HNL VORTAC, fly heading 180, climb and maintain at or below 1000 feet.

West Loch Five Departure

After departure turn right as soon as practicable until north of Runway 26R. Then fly direct to the center of West Loch of Pearl Harbor. Departure control frequency will be 119.1/239.05. Helicopters maintain at or below 1000 feet. Caution: VFR traffic inbound from the H-1/H-2 Interchange will be descending out of 2000 feet.

HNL VFR ARRIVAL PROCEDURES USED BY HELICOPTERS

North Six Arrival

Contact approach control 119.1/239.05 prior to H-1/H-2 Interchange at or above 2000 feet. PROCEDURE WHEN CLEARED: HELICOPTERS: Proceed direct to Ford Island and hold, maintain at or below 1000 feet. Expect further instructions from the tower.

West Five Arrival

Contact approach control 119.1/239.05 prior to Kahe Power Plant at or above 2000 feet. PROCEDURE WHEN CLEARED: From Kahe Power Plant, proceed direct to the H-1/H-2 Interchange at 2000 feet. HELICOPTERS: Depart the H-1/H-2 Interchange direct to Ford Island and hold, maintain a 1000 feet. Expect further instructions from the tower.

Kona Six Arrival

Runways 22/26 configuration. Contact approach control on 119.1/239.05 prior to CKH at or above 1,500 feet, or contact approach control on 124.8/317.6 prior to NORBY intersection at or below 3,000 feet. PROCEDURE WHEN CLEARED: HELICOPTERS: Proceed direct to and cross Waialae Golf Course at or below 1,000 feet. Follow the H-1 Freeway to Punchbowl. Hold at Punchbowl at or below 1,000 feet.

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WATER, OCEANS AND WILDLIFE

INDIGENOUS PEOPLES OF THE UNITED STATES

December 3, 2019

Ms. Raquel Girvin
Regional Administrator, Western-Pacific Region
Federal Aviation Administration
777 S. Aviation Blvd., Suite 150
El Segundo, CA 90245

Re: HNL VFR Helicopter Departure/Arrival Procedures

Dear Regional Administrator Girvin:

Thank you for your very instructive response of October 25th (copy attached) to my September 9, 2019 letter requesting confirmation of the routes and altitudes required by FAA air traffic controllers for commercial tour helicopters arriving and departing Honolulu International Airport (HNL).

With respect, the current procedures appear designed solely to maximize airport operations, including those of tour helicopter and small aircraft operators, to the exclusion of current and growing resulting safety, security and community disruption impacts. As just some examples:

- (1) The Shoreline Six Departure routes helicopters directly over Honolulu Harbor at very low altitudes, a subject of great concern to the State of Hawai'i as per my separate letter of even date. It similarly provides only a maximum offshore flight path of ½ mile and later two miles and not a similar minimum to keep helicopters as far away from the shoreline as possible. As a result, helicopters routinely fly immediately adjacent to the shoreline at low altitudes with widespread ground disruption.
- (2) The Freeway Two Departure routes helicopters directly over urban Honolulu rather than out to sea. Additionally, with the reference to "abeam Koko Head," it appears to route them directly over the residential communities of Hawai'i Kai and Kalama Valley as opposed to out to sea around Koko Head and Makapu'u.
- (3) The Redhill Two Departure similarly routes helicopters directly over urban Honolulu including residential neighborhoods.

- (4) The West Loch Five Departure routes helicopters directly over Pearl Harbor Naval Base and the Pearl Harbor National Memorial, USS Arizona Memorial and USS Missouri. As I will expand on in a separate letter to you, this is of great concern to our Navy and other armed services and to those who care for and celebrate our national heritage.
- (5) The North Six Arrival routes helicopters directly over urban Honolulu including residential neighborhoods. The direction to maintain an altitude of at least 2,000 feet over the H-1/H-2 Interchange is widely violated. The direction to proceed over Pearl Harbor, except now at no more than a 1,000-foot maximum altitude, results in the same concerns as the West Loch Five Departure. The additional direction to hold over Ford Island is an open invitation to the helicopter operators to hover over and circle the monuments, destroying their serenity and sanctity.
- (6) The West Five Arrival results in the same concerns as the North Six Arrival.
- (7) The Kona Six Arrival routes helicopters directly over urban Honolulu including residential neighborhoods. This is worsened by the instruction to fly at less than 1,000 feet past Waiʻalaie Golf Course, i.e. the densest part of urban Honolulu. The further instruction to “hold at Punchbowl at or below 1,000 feet” destroys the serenity and sanctity of the National Memorial Cemetery of the Pacific (Punchbowl) and is an open invitation to the helicopter operators to hover over Punchbowl, which they do. As one example, please see the attached screenshot of a FlightRadar24 recording of a tour helicopter circling over Punchbowl on May 28th at 7:49AM (demonstrating additionally that helicopter operators have little concern for ground impacts of early morning and late afternoon/evening flights).

I have three follow up question areas and one overall request:

- (a) What specifically is Class B? If it is the zone within which these departure and arrival procedures apply and outside of which they do not, please confirm and provide a specific map of the zone. Is it correct then, that outside of Class B is purely VFR per the Special Operating Rules for Air Tour Operators in the State of Hawai‘i and the Hawai‘i Air Tour Common Procedures Manual? What specific regulations governs altitude, route, time of operation and other conditions of flights outside of Class B?
- (b) Please further explain the Kona Five Departure, and please provide a map of this route.
- (c) What specific discussions have occurred, or are planned to occur, within FAA or between FAA and others to adjust these HNL arrival and departure routes and conditions to address safety, security and community disruption concerns?

I request a full review and report on how these procedures can be modified to address these safety, security and community disruption concerns. For example, can the routes with ground impacts be eliminated or modified? Can routes significantly out to sea replace routes over land and businesses, residences, recreational areas and cemeteries and monuments?

I am respectfully requesting that the FAA take my constituents' concerns very seriously and step back and ask whether there is a better way to address these concerns while assuring safe air operations. I also ask that you prioritize these concerns over those of the tour operators. I do not believe that any air operations should ignore or downplay these concerns, especially operations which are not essential to maintaining air transportation in and out of HNL.

Thank you for your prompt consideration and reply. Please let me know of any questions.

With aloha,

A handwritten signature in black ink that reads "Ed Case". The letters are bold and slightly slanted, with a casual, personal feel.

Congressman Ed Case
Hawai'i – First District

Enclosures

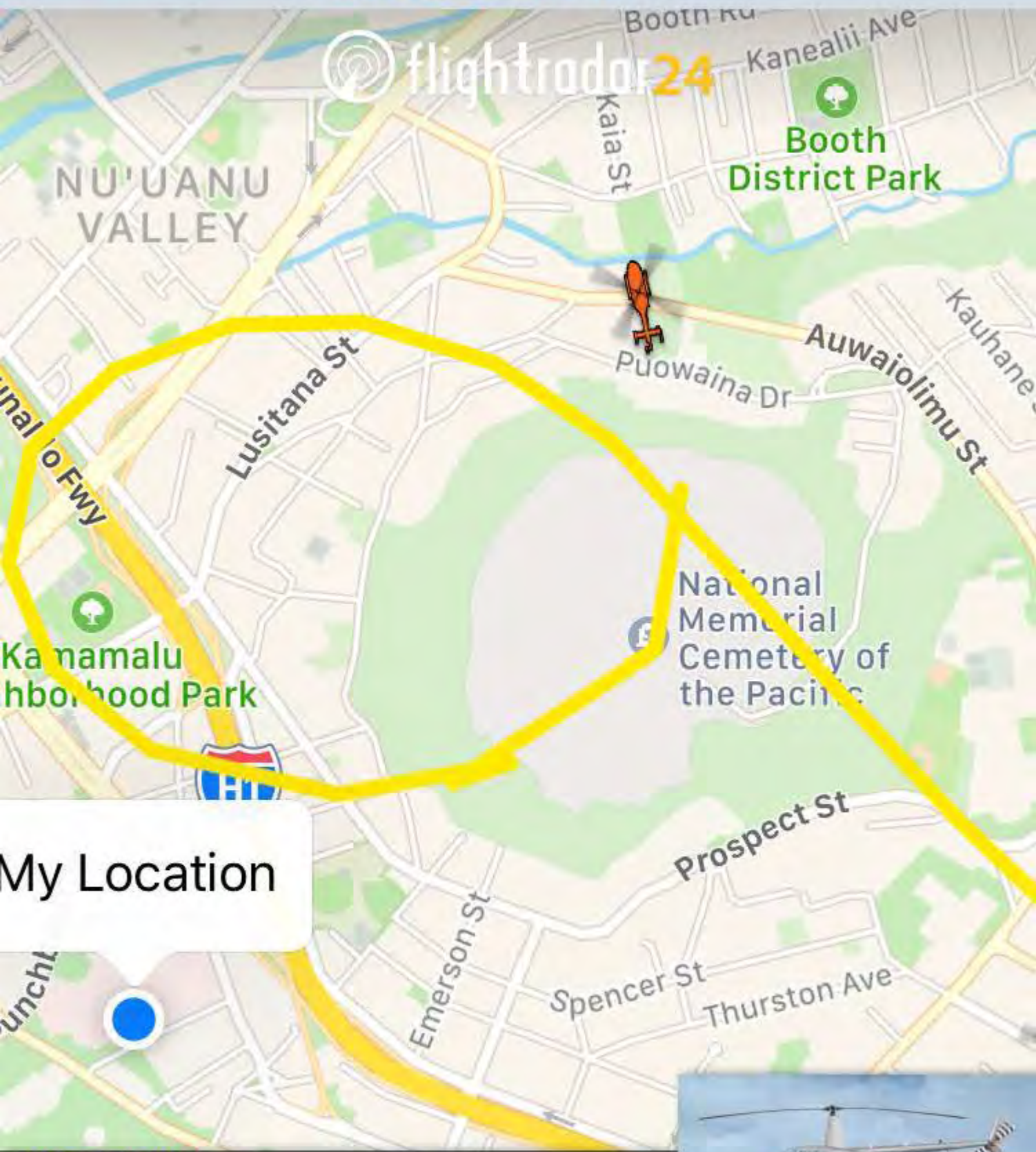
Ad



Fiji's Best Snorkeling Resort

Visit Site

The Remote Resort



My Location



N806NV Novictor Helicopters	Honolulu	N/A N/A	CALIBRATED ALT. 722 ft
HNL HONOLULU			GROUND SPEED 57 kts
DEPARTED 0:08 AGO			
Robinson R44			REG: N806NV

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SUBCOMMITTEES:
NATIONAL PARKS, FORESTS AND PUBLIC LANDS

WATER, OCEANS AND WILDLIFE

INDIGENOUS PEOPLES OF THE UNITED STATES

December 3, 2019

Ms. Raquel Girvin
Regional Administrator, Western-Pacific Region
Federal Aviation Administration
777 S. Aviation Blvd., Suite 150
El Segundo, CA 90245

Re: Hawai'i State Department of Transportation Request to Restrict Helicopters and Small
Planes from Airspace Over Hawai'i Harbors

Dear Regional Administrator Girvin:

Please find attached a copy of a September 11, 2019 letter to me from Jade Butay, Director of the
Hawai'i State Department of Transportation.

The Department of Transportation has jurisdiction over Hawaii's public commercial harbors.
These include Honolulu Harbor, the state's busiest and most congested, located immediately
adjacent to the commercial and industrial sections of central Honolulu and nearby Honolulu
International Airport (HNL).

As you can see, Director Butay has expressed serious concerns with the safety, security and
disruption risks of low-flying helicopters and small planes directly over Hawaii's harbors
especially Honolulu Harbor. His request is that all such flights be restricted to alternative
airspace.

To supplement Director Butay's concerns, the great majority of these low-flying aircraft are tour
helicopters, i.e., not recreational, first responder or other commercial helicopters, and not small
aircraft. I have personally witnessed them flying as low as Director Butay describes down the
middle of Honolulu Harbor. As just one example, I attach a screenshot of a FlightRadar24 live
recording of a tour helicopter's route on August 24th of this year at 12:13PM at an altitude of 210
feet. The volume of such flights can total dozens per day.

I had awaited forwarding Director Butay's letter to you pending the FAA's response to my
separate letter of September 9th asking for confirmation of the routes and altitudes currently

required by FAA air traffic controllers for commercial tour helicopters arriving and departing HNL. I now have your October 25th response (copy attached).

In your response, you recite procedures for the “Shoreline Six Departure” (utilized for the great bulk of commercial tour helicopter departures) as “proceeding direct to the center of Honolulu Harbor.” Although you do not recite an altitude restriction specific to the Honolulu Harbor overflight, I assume from your later restriction of 500 feet that helicopters can fly at any altitude less than that over Honolulu Harbor as well.

It appears clear that the concerns voiced by the State of Hawai‘i through Director Butay as to Honolulu Harbor specifically were and are created by the FAA’s own departure requirements, likely contributed to by the tour helicopter operators’ preference for such a route for sightseeing purposes. It also appears that those requirements did not and do not take into account legitimate concerns relative to the safety, security and disruption of Honolulu Harbor and the highly dense adjacent areas.

An alternative appears to exist under which all helicopter departures are routed immediately after takeoff to the south of Sand Island as far out to sea as possible. This would avoid any overflight of Honolulu Harbor or adjacent areas and further would at least somewhat mitigate community disruption along the south shoreline of O‘ahu. I assume that any concerns with interference in normal operation of any runway including 8R/26L (aka the Reef Runway) can be handled in the normal course as are other operations. For the State of Hawai‘i, I ask for a specific review and response on whether and how the FAA will address Director Butay’s concerns with Honolulu Harbor overflights including a rerouting as described.

Finally, while Director Butay’s primary focus is Honolulu Harbor, commercial tour helicopter overflights are a substantial concern at Hawaii’s other commercial harbors. Like Honolulu Harbor, I do not believe that any of our harbors, which are the commercial lifeline of our island state, should be asked to accommodate in any way overflights or other interference from the purely discretionary activity of air tours. I therefore ask that you also review and report back on whether and under what conditions commercial tour helicopters are permitted or directed to overfly any other commercial harbor as well and what specific changes are necessary to avoid similar interference.

Thank you for your prompt attention and reply to these concerns. Please advise of any questions.

With aloha,

Ed Case

Congressman Ed Case
Hawai‘i – First District

Enclosures

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

JADE T. BUTAY
DIRECTOR

Deputy Directors
LYNN A.S. ARAKI-REGAN
DEREK J. CHOW
ROSS M. HIGASHI
EDWIN H. SNIFFEN

IN REPLY REFER TO:
DEP-H 7164.20

September 11, 2019

The Honorable Ed Case
U.S. House of Representatives
2443 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Case:

Subject: Safe and Quiet Skies Act

Thank you for your continued support of the State of Hawaii, Department of Transportation Harbors Division. Your efforts in securing appropriations in the U.S. Army Corps of Engineers and U.S. Department of Transportation programs are a tremendous help in our ability to provide the needed services to the communities throughout Hawaii.

I am requesting your consideration for including commercial harbor areas in the "Safe and Quiet Skies Act" that would impose strict regulations on commercial tour operations to include helicopters and small planes.

As you know, recent tragedies caused by helicopter and small aircraft crashes have caused property damage and loss of lives.

In the past, helicopters have entered Hawaii's commercial harbors and have been seen flying lower than the gantry cranes, mast of a cruise ship, and even the Aloha Tower. These low flying helicopters are especially dangerous if they were to crash on a cruise ship, thereby injuring or killing a great number of people, may damage critical cargo cranes and wharf infrastructure, could distract dock workers that are moving heavy cargo loads and, at the least, would disrupt the flow of cargo.

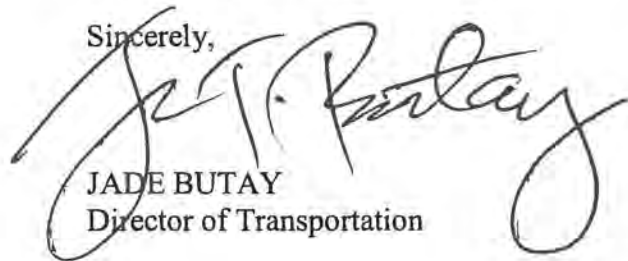
Harbors, like airports, are secured and restricted by the U.S. Department of Homeland Security to prevent threats from acts of terrorism. Restricting aircraft from commercial harbors would minimize acts of terror and eliminate accidents.

The Honorable Ed Case
September 11, 2019
Page 2

DEP-H 7164.20

I humbly ask for your assistance in restricting helicopters and small planes from entering Hawaii's commercial harbors.

Sincerely,

A handwritten signature in black ink, appearing to read "Jade Butay". The signature is fluid and cursive, with a large loop at the end.

JADE BUTAY
Director of Transportation

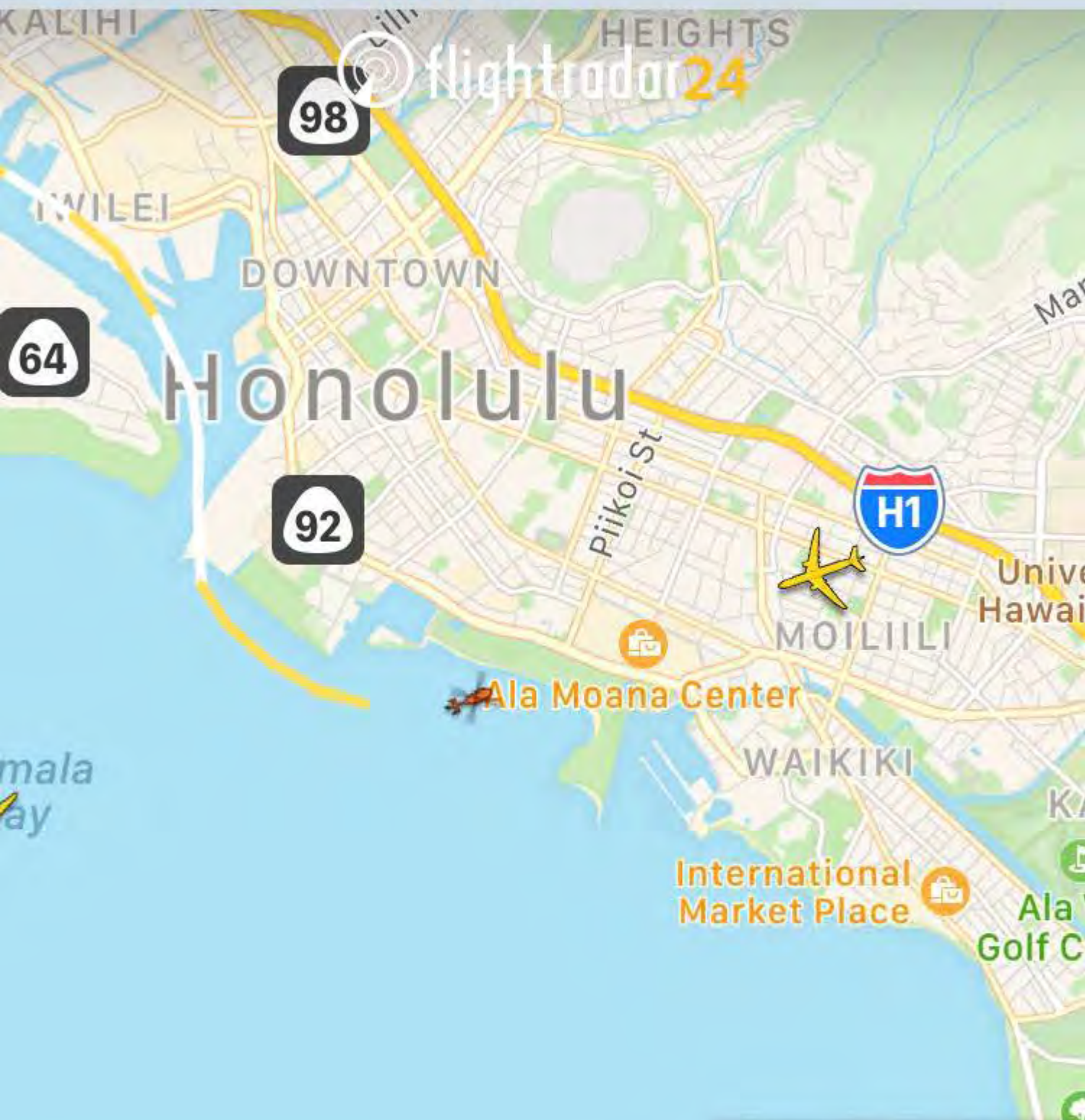
Ad



We would love to chat with you

Learn More

Sentient Jet



N11QZ
Private owner



© Flightradar24

HNL
HONOLULU



N/A
N/A

CALIBRATED ALT.
210 ft
GROUND SPEED
92 kts

DEPARTED 0:02 AGO

Eurocopter EC130 B4

REG: N11QZ

3D view

Route

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Congress of the United States
House of Representatives
Washington, DC 20515

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INDIGENOUS PEOPLES OF THE UNITED STATES

December 12, 2019

Ms. Raquel Girvin
Regional Administrator, Western-Pacific Region
Federal Aviation Administration
777 S. Aviation Blvd., Suite 150
El Segundo, CA 90245

Subject: Tour Helicopter/Small Aircraft Overflights of Joint Base Pearl Harbor-Hickam and Pearl Harbor National Memorial

Dear Regional Administrator Girvin:

Joint Base Pearl Harbor-Hickam (JBPHH) is our nation's principal U.S. Navy and U.S. Air Force installation in the Pacific. The full range of defense and related activities occurs at JBPHH daily to include those of Naval Station Pearl Harbor and Pearl Harbor Naval Shipyard. JBPHH is also home to thousands of our military families. The safety and security, guarantee of full operational range and quality of life of JBPHH is of paramount importance.

Independently, Pearl Harbor is also home to one of our country's most hallowed sites, Pearl Harbor National Memorial. The memorial, administered by the National Park Service and commemorating the events of the attack of December 7, 1941 and subsequent Pacific War and the hundreds of thousands of our own lost, includes the USS Arizona, Oklahoma and Utah memorials and visitors center. Also nearby at Pearl Harbor are the USS Missouri, on whose decks World War II ended, the USS Bowfin Submarine Museum and Park and the Pearl Harbor Aviation Museum. Well over one million residents and visitors come to these memorials and museums annually to understand the solemnity of these events, pay their respects to those who served, and honor our country.

Yet there are no laws or regulations that prohibit or significantly control the use of the airspace over these critical facilities to protect their safety, security, operational flexibility, life quality and sanctity. Moreover, as confirmed in your October 25, 2019 letter to me and further addressed in my December 3rd reply, Federal Aviation Administration (FAA) Honolulu International Airport (HNL) air traffic control arrival and departure procedures for tour helicopters in fact designate major routes directly over Pearl Harbor and even specify Ford Island, in the middle of Pearl Harbor where the USS Arizona Memorial is located, as a hold location, all at a very low altitude of no more than 1,000 feet.

As a result, tour helicopters and small aircraft have overflowed the entirety of Pearl Harbor for decades and lately in rapidly increasing frequency and expanded hours. Their common practice is to circle and/or hover over Ford Island and the USS Arizona Memorial, whether or not a hold instruction has been provided, thus materially worsening the impact. The consequences have been increasing concern by our military over the safety, security and operational flexibility of JBPHH as well as the time and effort required to monitor such overflights, and persistent and accelerating complaints by visitors to our memorials that such overflights both visually and acoustically disrupt the overall experience and destroy the solemnity and sanctity of these special places.

My bill, H.R. 4547, the proposed Safe and Quiet Skies Act, would prohibit such tour flights over military installations, national cemeteries (of which at least the USS Arizona is the functional equivalent), national parks and other especially sensitive sites. I specifically ask for the FAA's support of at least these key provisions of H.R. 4547, if not the entirety of the bill.

Further, as a result of these concerns the Navy, FAA and the tour helicopter industry (without participation by other concerned parties, such as the National Park Service, Pearl Harbor Historic Sites partners or adjoining communities) entered into a voluntary agreement implemented in June of this year. Under that agreement, certain zones are designated as overflight avoidance zones and certain additional zones are designated as particularly noise-sensitive areas to be avoided wherever possible. The agreement further provides for a minimum altitude of 500 feet.

The agreement is wholly deficient for a number of reasons. First, tour helicopters routinely violate it. As just one example, please see attached screenshots of a FlightRadar24-recorded flight yesterday (at 7:00am, itself a denial of any semblance of concern for ground and community disruption). The flight track is directly over the Pearl Harbor base and Ford Island, circling over the USS Arizona Memorial, all direct overflight avoidance zones. The altitude was in all likelihood less than 500 feet.

This is not an isolated instance, as reflected by the further FlightRadar24-recorded flight of last Sunday, December 7th (the anniversary of the Pearl Harbor attack) directly over the base and Ford Island. Tour helicopters also routinely overfly the agreement's noise-sensitive areas although they have ready options to avoid doing so. As noted earlier, they also circle and hover throughout the memorial rather than simply transit, thereby materially worsening the visual and acoustical disruption on the ground.

Second, the agreement does not designate key JBPHH facilities as clear overflight avoidance/no-fly zones. As the most direct example, the Navy SEAL base is located at the southern point of the Waipi'o Peninsula, and currently-permitted overflights of those facilities as low as 500 feet (assuming the tour operators are complying with the agreement) are regarded by the SEALs as not only disruptive to their operations but a safety and security concern. There are other particularly sensitive areas similarly not prescribed.

Third, the agreement does nothing to protect the sanctity and solemnity of the Pearl Harbor National Memorial and its associated memorials and facilities on and adjacent to Ford Island and

at and adjacent to the visitor center. Neither the USS Arizona nor the USS Missouri are within the overflight avoidance zones or even noise-sensitive areas; they are routinely overflown, circled and hovered over at low altitudes. Though the visitor center is within the overflight avoidance zone, it is routinely overflown.

Fourth, the agreement rests on the assumption that tour helicopter overflights of our sensitive national defense and security facilities and most hallowed national monuments and memorials must be accommodated, whether at Pearl Harbor or anywhere else in the country. This assumption is false. Tour helicopter operations are a purely optional, discretionary use of our airspace, a disruptive and too often unsafe use at that, and in the case of Pearl Harbor, a risk to operations and security and disrupter of our monuments and memorials. There should be no accommodation or deference to their operations given clear priorities for airspace control.

Fifth, the FAA's routing of tour helicopter arrivals and departures over Pearl Harbor to start with materially worsens the safety and community disruption consequences in adjacent and nearby residential communities like Waipi'o, Waikele, Waipahu, Pearl City, 'Aiea, Āliamanu, Salt Lake and Foster Village. These dense but quiet communities are literally overrun by dozens of tour helicopters flying at low altitudes substantially below 1,000 feet every day. Any tour helicopter arrivals to and departures from HNL should be from the ocean exclusively.

For these reasons, I specifically ask the FAA to terminate any and all tour helicopter overflights of JBPHH and of all of Pearl Harbor itself. I further ask the FAA to fully review and reassess its HNL departure and arrival routes with the specific goal of prioritizing ground-based safety and community disruption concerns and to designate arrival and departure routes exclusively from and to the ocean.

Thank you for your prompt consideration and response. Please let me know of any questions.

With aloha,

A handwritten signature in black ink that reads "Ed Case". The letters are bold and slightly slanted, with a casual, personal feel.

Congressman Ed Case
Hawai'i – First District

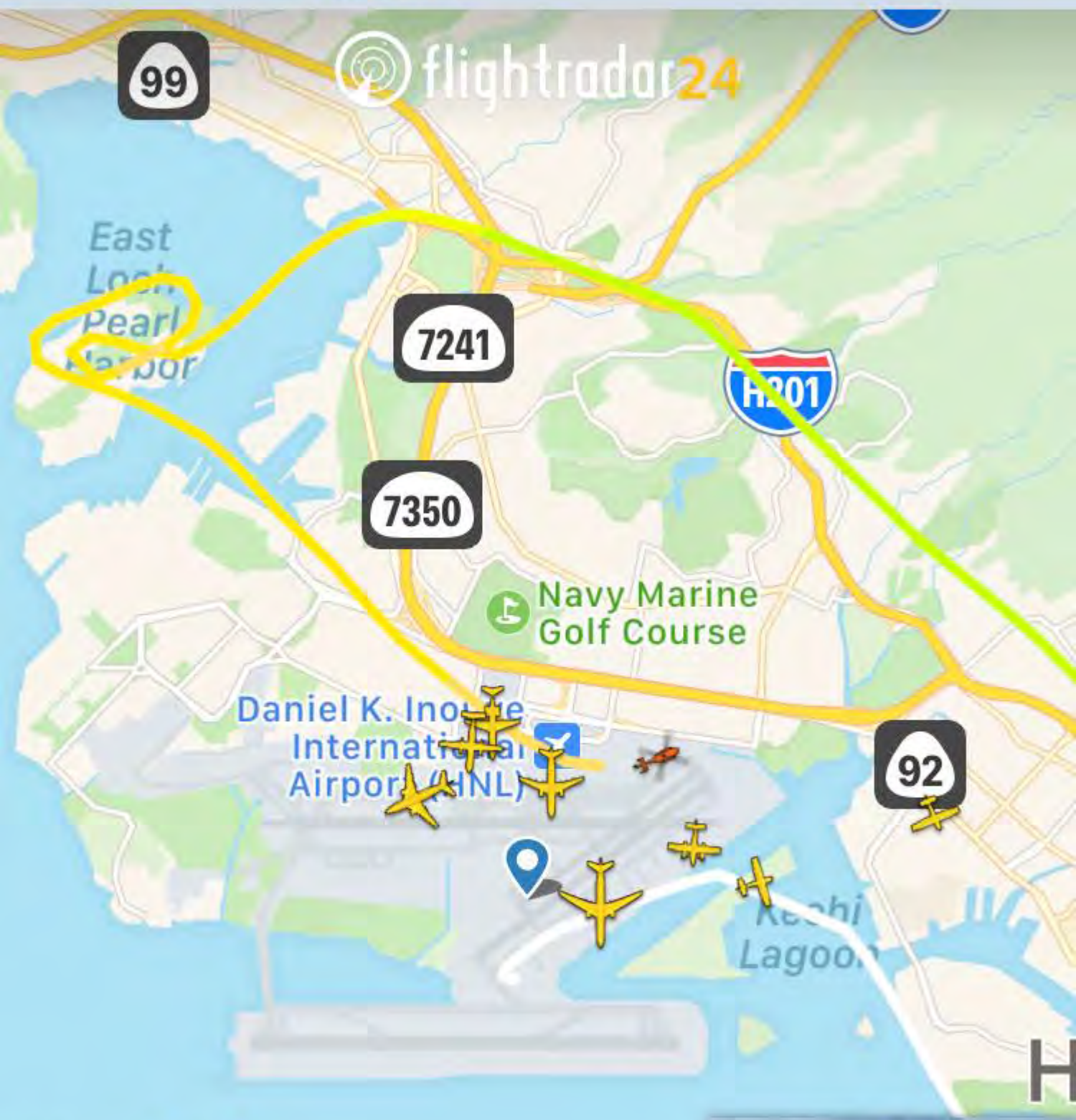
Enclosures




Ad



Wide-Body Fleet
First Officer
Atlas Air

Open



 N422PE Private owner	December 11, 2019	 © Flightradar24
HNL HONOLULU Departed 0:18 ago	 N/A	CALIBRATED ALT. 124 ft GROUND SPEED 103 kts
Robinson R44 Raven II		REG: N422PE

N422PE
Private owner

December 11, 2019



© Flightradar24



HNL
HONOLULU
HST (UTC-10:00)



N/A

ACTUAL

7:21 AM

ESTIMATED

N/A

acukwik.com

Aviation & Pilot Info

Open



TYPE (R44)
Robinson R44 Raven II

REGISTRATION
N422PE

COUNTRY OF REG.

SERIAL NUMBER (MSN)

AGE

Recent N422PE flights

3D view

Route

Less info

Follow

Share

N422PE

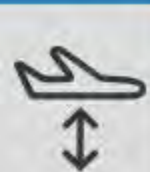
Private owner

December 11, 2019

flightradar24
LIVE AIR TRAFFIC



Recent N422PE flights



CALIBRATED ALTITUDE

47 ft

VERTICAL SPEED



GPS ALTITUDE

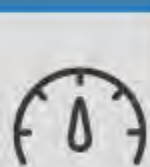


TRACK

172°



Speed & altitude graph



GROUND SPEED

109 kts

TRUE AIRSPEED

N/A

INDICATED AIRSPEED

N/A

MACH

N/A



TEMPERATURE

N/A

WIND

N/A



Data source — ADS-B



FIR/UIR



ICAO 24-BIT ADDRESS

A50457

SQUAWK



LATITUDE

21.315

LONGITUDE

-157.901

Remove ads - get a faster app experience



3D view



Route



Less info



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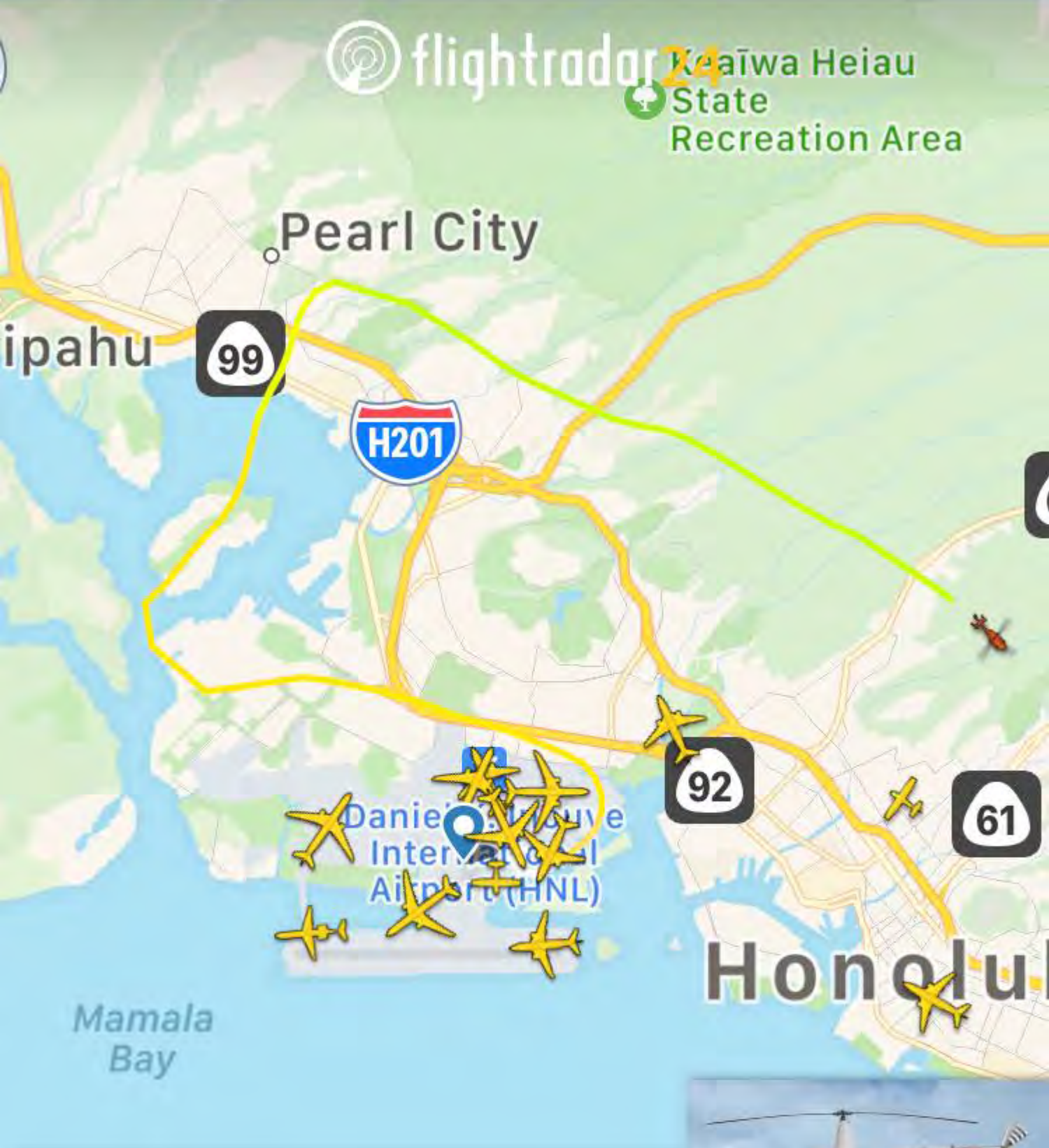
Ad



Drive With Uber

Open

Uber



R44

December 7, 2019



© Flightradar24

N/A



N/A

CALIBRATED ALT. 1,759 ft
GROUND SPEED 105 kts

Robinson R44

REG: N/A

3D view

Route

More info

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INDIGENOUS PEOPLES OF THE UNITED STATES

December 3, 2019

Ms. Raquel Girvin
Regional Administrator, Western-Pacific Region
Federal Aviation Administration
777 S. Aviation Blvd., Suite 150
El Segundo, CA 90245

Re: Required 2020 Operation of Automatic Dependent Surveillance-Broadcast (ADS-B) Out Equipment On All Hawai'i Commercial Helicopters and Small Aircraft; Status of Hawai'i Air Tour Common Procedures Manual (HATCPM)

Dear Regional Administrator Girvin:

As you know, I have communicated throughout this year with the FAA and others regarding accelerating safety and community disruption concerns arising from the increasing operation throughout Hawai'i of commercial tour helicopters and small aircraft.

Thus far, I understand the sum total of the FAA's responses to be that the FAA does not regulate such operations for noise and related community disruptions on the ground, and largely defers to the tour helicopter and small aircraft operators for voluntary compliance with FAA regulations in particular the Special Operating Rules for Air Tour Operators in the State of Hawai'i and FAA-operator agreements such as the HATCPM. We have collectively also discussed that enforcement is highly problematic, as indicated by widespread violations of minimum altitude and comparable requirements and understandings.

I had understood that a principal FAA-initiated response to the challenge of effective monitoring, compliance and enforcement was required installation and operation on all commercial helicopters and small aircraft by the beginning of 2020 of ADS-B Out equipment. However, I was recently informed that this requirement may not be imposed statewide but only on selected flight paths.

Please confirm the specifics of this requirement at your earliest convenience. The safety and community disruption concerns are statewide and are not specific to urban Honolulu or even the Island of O'ahu. In fact, some of the most heavily impacted areas of the state are on other islands in more rural areas. If in fact ADS-B installation and operation are not universally required

throughout Hawai'i by the beginning of 2020, I specifically ask that you immediately modify the requirement to impose a universal requirement so that monitoring, compliance and enforcement may be similarly universal.

Finally, in your May 17th reply (copy attached) to my inquiry, you stated that the FAA and Hawai'i air tour operators are working to replace the HATCPM. You further declined to provide opportunity for public comment on the HATCPM replacement process on the grounds that the HATCPM is proprietary.

Could you please advise me of the status of the replacement HATCPM. Please also provide a copy of the replacement HATCPM or if it is not yet complete the current draft. I must advise you that I do not consider this document proprietary in any way, especially given that it addresses commercial use of public airspace, and believe both I and any member of the public is entitled to view and comment on it in draft or final form.

Thank you for your prompt attention and reply to this matter. Please let me know of any questions.

With aloha,

A handwritten signature in black ink that reads "Ed Case". The letters are bold and slightly slanted, with a casual, personal feel.

Congressman Ed Case
Hawai'i – First District

Enclosure



U.S. Department
of Transportation
**Federal Aviation
Administration**

Western-Pacific Region
Office of the Regional Administrator

777 S. Aviation Blvd., Suite 150
El Segundo, CA 90245

May 17, 2019

The Honorable Congressman Ed Case
2443 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Case:

This letter is in response to your April 4, 2019 letter containing follow up questions from our March 22, 2019, conference call about commercial air tour operations in Hawaii. We appreciated the opportunity to talk with you and your staff on this important issue. Here are replies to the four separate areas of inquiry in your April 4, 2019 letter.

(1) National Parks Air Tour Management Act of 2000 (NPATMA)

As we discussed on our March 22, 2019 call, the NPATMA does provide the FAA and the National Park Service (NPS) with the regulatory backing to develop air tour plans over national parks, to include restrictions on the number of flights, location of flights, time of flights, altitudes of flights, etc. You correctly note that the agencies have not developed an air tour management plan (ATMP) at any park to date. The agencies have, however, as an alternative to an ATMP (as provided for in the 2012 amendments to NPATMA), developed voluntary agreements (VAs) for the two air tour operators at Big Cypress National Preserve and Biscayne National Park, both in Florida. Like ATMPs, operators are bound by the terms and conditions agreed to in a voluntary agreement. The agencies have also developed VAs for six air tour operators at Glen Canyon National Recreation Area and Natural Bridges National Monument in Arizona/Utah and are close to releasing draft VAs for an air tour operator for Mount Rushmore National Memorial and Badlands National Park, both in South Dakota.

In the last six years, the agencies have agreed to focus on developing VAs at national parks. That was due to jurisdictional issues between the agencies, primarily over the environmental impact analyses and determinations that made completion of ATMPs difficult. We also now have 6 years' worth of reporting data, which has been very helpful in informing the agencies about air tour activity over national parks. As you mentioned, Hawaii Volcanoes and Haleakala are two of the top parks nationwide for air tours. Recent 2018 data shows that the number of air tours at Hawaii Volcanoes National Park dropped approximately 50% from 2017 numbers. The number of tours being

offered did not decrease, but the volcanic activity moved outside the park. That shows the specific challenge in developing an ATMP or VA at that park, as the focal point for tour offerings may change location over time, so too would be the residents likely impacted by air tours. That would include residents beyond the ½ mile buffer coverage of the plan.

The NPS has expressed interest in the past in making Hawaii Volcanoes a priority for developing an air tour plan, and FAA supports that position. The recent spate of volcanic activity, park shutdown, and then government shutdown, among other issues, has taken some of that focus away. The NPS has mentioned they would like to see how the recently formed community roundtable effort, to address issues outside the park, unfolds. That being said, we do have a lot of background information and data, as well as alternatives developed from our earlier ATMP efforts at both parks that will be helpful when moving forward.

The agencies have recently met in Washington D.C. with respective headquarters staff to see if there are new paths forward to the development of ATMPs (as opposed to VAs). Further discussions are planned, including identifying potential candidate parks should an ATMP option be viable. It is unlikely, however, that either of the two big Hawaii national parks would be considered as a test park for an ATMP (to increase the chances of success and inform the agencies for subsequent, more difficult parks).

(2) Minimum Altitude Restrictions (14 CFR Part 136 Appendix A and Related)

The Honolulu Flight Standards District Office (FSDO) provided the following information related to minimum altitude restrictions, enforcement, and any technologies for ensuring compliance.

Regulations that apply:

In conjunction with 14 CFR Part 136, Appendix A *Special Operating Rules for Air Tour Operators in the State of Hawaii*, Air Tour Operators in the State of Hawaii operate under one or two regulations: (a) 14 CFR Part 135 with the associated Operations Specifications (B048 – Air Tour Operations Below 1,500 Feet AGL in the State of Hawaii) and/or (b) 14 CFR Part 91 with an associated Letter Of Authorization (LOA);

Types of Enforcement Action:

Substantiated violations of the above regulations could result in a Civil Penalty or Certificate Action (Operator/Airman/Authorization).

Technologies in place to ensure compliance:

Aviation Safety, Flight Standards uses Aviation Safety Inspectors to assure compliance and as such, Flight Standards does not have technologies dedicated to ensure compliance with the specific regulations. However, when investigating complaints of minimum

altitude restrictions (low flying aircraft), we rely on information gathered from our trained Inspectors and Air Traffic data reports when available.

(3) Hawaii Air Tour Common Procedures Manual (HATCPM)

We discussed in some detail the background and evolution of the HATCPM and its function and focus as a safety document. The FAA and Hawaii air tour operators are working to replace the current HATCPM, FAA Document Number: AWP13-136A (HATCPM FAA Doc. AWP-13-136A). The new manual will be integrated into each independent Hawaii air tour operator's General Operations Manual (GOM) as required by 14 CFR Part 135.21, and 14 CFR Part 135.23. This is not a unique situation. All Part 121 and Part 135 operators own their manuals as proprietary documents. Therefore, we cannot support the request to have this new manual circulated to the public for comment.

(4) Mitigation Measures

In regards to the community noise roundtable that was recently formed (Fall 2018) to address air tour related noise issues on the Big Island, the Hawaii Department of Transportation (HDOT) - Airports Division is the lead in facilitating those discussions. The FAA serves as a technical advisor to this group, and can review any recommendations put forward by the roundtable, from a safety and air traffic perspective. The membership of the roundtable includes not only HDOT - Airports Division but also two members of the Hawaii Helicopter Association (i.e. the air tour operators) and two members from the local community. It is our understanding that HDOT - Airports Division selected the community representatives to provide the necessary input from the homeowners and residents affected by these tour operations. For transparency, HDOT - Airports Division has been posting the minutes from these roundtable meetings. Our Honolulu FSDO manager is our local representative to the roundtable.

As you noted, there was a large, open public meeting held on the Big Island in Summer 2018, where HDOT - Airports Division, FAA, and the Hawaii Helicopter Association met with federal, state, and local elected officials and representatives, and hundreds of local citizens. This meeting provided a forum to hear concerns from the elected officials and local citizens. Unfortunately, however, it should be noted that a few individuals used that opportunity to voice specific and credible threats against air tour operators and their operations. FAA security personnel passed that information along to the FBI for follow up and have worked on? more recent threatening messages received by FAA employees in the Honolulu FSDO. The safety of our FAA personnel is paramount, and is going to be a continuing concern for community engagement on this matter.

We look forward to collaborating with you and your office on commercial air tour issues in Hawaii.

Page. 4

If you have any questions regarding this letter, please contact Mr. Keith Lusk at your earliest opportunity at (424) 405-7017 or at keith.lusk@faa.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Raquel Girvin".

Raquel Girvin
Regional Administrator

ED CASE
1ST DISTRICT, HAWAII

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Congress of the United States
House of Representatives
Washington, DC 20515

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December 9, 2019

Ms. Raquel Girvin
Regional Administrator
Federal Aviation Administration
777 S. Aviation Blvd., Suite 150
El Segundo, CA 90245

Mr. Stan Austin
Regional Director
National Park Service
333 Bush St., Suite 500
San Francisco, CA 94104

Re: Voluntary Agreements or Air Tour Management Plans at Hawai'i National Park Service Units

Dear Regional Administrator Girvin and Regional Director Austin:

As announced earlier this year, the National Park Service (NPS) and Federal Aviation Administration (FAA) have begun the process of establishing Voluntary Agreements (VA) or Air Tour Management Plans (ATMP) for seven NPS units. Unfortunately, no units in Hawai'i were selected to be among this group.

As I discussed with former NPS Deputy Director Dan Smith at the April 3, 2019 House Natural Resources Subcommittee on National Parks, Forests and Public Lands hearing reviewing the NPS Fiscal Year 2020 budget request and through multiple communications with the FAA, Hawai'i Volcanoes National Park, Pearl Harbor National Memorial and Haleakalā National Park are among the NPS units with the most commercial tour helicopter and small aircraft overflights in the nation. These units and their surrounding communities suffer from major disruption resulting from the dozens of flights that buzz overhead every day. In fact, the number of overflights at Hawai'i Volcanoes National Park alone exceeded 16,000 annually a few years ago.

This barrage destroys the peace of our national parks and the sanctity and solemnity of our national cemeteries and monuments. There is no reason why such unlimited destructive uses of our national spaces should be accommodated or tolerated, as confirmed in federal law now decades old.

In her May 17, 2019 letter to me (copy attached), Regional Administrator Girvin stated that the Hawai'i units are among the busiest but were unlikely to be selected among these initial parks

because (a) the FAA wanted to await the results of the stated community roundtable effort and (b) the FAA apparently felt that any plans at Hawai'i Volcanoes or Haleakalā were not easily translated to other national parks. I must respectfully disagree, as (i) the community roundtable is not yielding any measurable results to include any acceptance of community concerns or modification of operator actions including over our national spaces, and (ii) it is difficult to accept that ATMPs at Hawai'i parks and memorials, with their constant and far greater overflights than virtually anywhere else in the country, would not have valuable lessons elsewhere. Just the sheer volume of overflights and the sheer extent of community disruption on the ground should prioritize ATMPs or VAs at Hawai'i NPS units.

You are also aware that the failure to adopt mandatory ATMPs for our national parks is the subject of ongoing litigation with respect to our seven most overflowed national parks, including Hawai'i Volcanoes and Haleakalā. It is difficult to understand why the current ATMP/VA process would have included only one of those seven when the challenges and impacts are far more substantial at the seven subject to the litigation, and I ask for the specific criteria utilized in selecting the NPS units chosen and a status report on their ATMPs and VAs.

I also specifically ask that Hawai'i Volcanoes National Park, Haleakalā National Park and Pearl Harbor National Memorial be added at this time to the list of national spaces for which NPS and FAA are moving forward with ATMPs or VAs. Please understand again the real-world consequences to millions of residents and visitors to these special places of the FAA and NPS effectively sanctioning their significant deterioration and disruption by failing to act.

Thank you for your prompt attention and reply to these concerns. Please advise of any questions.

With aloha,

A handwritten signature in black ink that reads "Ed Case". The letters are bold and slightly slanted to the right.

Congressman Ed Case
Hawai'i – First District

Enclosure



U.S. Department
of Transportation
**Federal Aviation
Administration**

Western-Pacific Region
Office of the Regional Administrator

777 S. Aviation Blvd., Suite 150
El Segundo, CA 90245

May 17, 2019

The Honorable Congressman Ed Case
2443 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Case:

This letter is in response to your April 4, 2019 letter containing follow up questions from our March 22, 2019, conference call about commercial air tour operations in Hawaii. We appreciated the opportunity to talk with you and your staff on this important issue. Here are replies to the four separate areas of inquiry in your April 4, 2019 letter.

(1) National Parks Air Tour Management Act of 2000 (NPATMA)

As we discussed on our March 22, 2019 call, the NPATMA does provide the FAA and the National Park Service (NPS) with the regulatory backing to develop air tour plans over national parks, to include restrictions on the number of flights, location of flights, time of flights, altitudes of flights, etc. You correctly note that the agencies have not developed an air tour management plan (ATMP) at any park to date. The agencies have, however, as an alternative to an ATMP (as provided for in the 2012 amendments to NPATMA), developed voluntary agreements (VAs) for the two air tour operators at Big Cypress National Preserve and Biscayne National Park, both in Florida. Like ATMPs, operators are bound by the terms and conditions agreed to in a voluntary agreement. The agencies have also developed VAs for six air tour operators at Glen Canyon National Recreation Area and Natural Bridges National Monument in Arizona/Utah and are close to releasing draft VAs for an air tour operator for Mount Rushmore National Memorial and Badlands National Park, both in South Dakota.

In the last six years, the agencies have agreed to focus on developing VAs at national parks. That was due to jurisdictional issues between the agencies, primarily over the environmental impact analyses and determinations that made completion of ATMPs difficult. We also now have 6 years' worth of reporting data, which has been very helpful in informing the agencies about air tour activity over national parks. As you mentioned, Hawaii Volcanoes and Haleakala are two of the top parks nationwide for air tours. Recent 2018 data shows that the number of air tours at Hawaii Volcanoes National Park dropped approximately 50% from 2017 numbers. The number of tours being

offered did not decrease, but the volcanic activity moved outside the park. That shows the specific challenge in developing an ATMP or VA at that park, as the focal point for tour offerings may change location over time, so too would be the residents likely impacted by air tours. That would include residents beyond the ½ mile buffer coverage of the plan.

The NPS has expressed interest in the past in making Hawaii Volcanoes a priority for developing an air tour plan, and FAA supports that position. The recent spate of volcanic activity, park shutdown, and then government shutdown, among other issues, has taken some of that focus away. The NPS has mentioned they would like to see how the recently formed community roundtable effort, to address issues outside the park, unfolds. That being said, we do have a lot of background information and data, as well as alternatives developed from our earlier ATMP efforts at both parks that will be helpful when moving forward.

The agencies have recently met in Washington D.C. with respective headquarters staff to see if there are new paths forward to the development of ATMPs (as opposed to VAs). Further discussions are planned, including identifying potential candidate parks should an ATMP option be viable. It is unlikely, however, that either of the two big Hawaii national parks would be considered as a test park for an ATMP (to increase the chances of success and inform the agencies for subsequent, more difficult parks).

(2) Minimum Altitude Restrictions (14 CFR Part 136 Appendix A and Related)

The Honolulu Flight Standards District Office (FSDO) provided the following information related to minimum altitude restrictions, enforcement, and any technologies for ensuring compliance.

Regulations that apply:

In conjunction with 14 CFR Part 136, Appendix A *Special Operating Rules for Air Tour Operators in the State of Hawaii*, Air Tour Operators in the State of Hawaii operate under one or two regulations: (a) 14 CFR Part 135 with the associated Operations Specifications (B048 – Air Tour Operations Below 1,500 Feet AGL in the State of Hawaii) and/or (b) 14 CFR Part 91 with an associated Letter Of Authorization (LOA);

Types of Enforcement Action:

Substantiated violations of the above regulations could result in a Civil Penalty or Certificate Action (Operator/Airman/Authorization).

Technologies in place to ensure compliance:

Aviation Safety, Flight Standards uses Aviation Safety Inspectors to assure compliance and as such, Flight Standards does not have technologies dedicated to ensure compliance with the specific regulations. However, when investigating complaints of minimum

altitude restrictions (low flying aircraft), we rely on information gathered from our trained Inspectors and Air Traffic data reports when available.

(3) Hawaii Air Tour Common Procedures Manual (HATCPM)

We discussed in some detail the background and evolution of the HATCPM and its function and focus as a safety document. The FAA and Hawaii air tour operators are working to replace the current HATCPM, FAA Document Number: AWP13-136A (HATCPM FAA Doc. AWP-13-136A). The new manual will be integrated into each independent Hawaii air tour operator's General Operations Manual (GOM) as required by 14 CFR Part 135.21, and 14 CFR Part 135.23. This is not a unique situation. All Part 121 and Part 135 operators own their manuals as proprietary documents. Therefore, we cannot support the request to have this new manual circulated to the public for comment.

(4) Mitigation Measures

In regards to the community noise roundtable that was recently formed (Fall 2018) to address air tour related noise issues on the Big Island, the Hawaii Department of Transportation (HDOT) - Airports Division is the lead in facilitating those discussions. The FAA serves as a technical advisor to this group, and can review any recommendations put forward by the roundtable, from a safety and air traffic perspective. The membership of the roundtable includes not only HDOT - Airports Division but also two members of the Hawaii Helicopter Association (i.e. the air tour operators) and two members from the local community. It is our understanding that HDOT - Airports Division selected the community representatives to provide the necessary input from the homeowners and residents affected by these tour operations. For transparency, HDOT - Airports Division has been posting the minutes from these roundtable meetings. Our Honolulu FSDO manager is our local representative to the roundtable.

As you noted, there was a large, open public meeting held on the Big Island in Summer 2018, where HDOT - Airports Division, FAA, and the Hawaii Helicopter Association met with federal, state, and local elected officials and representatives, and hundreds of local citizens. This meeting provided a forum to hear concerns from the elected officials and local citizens. Unfortunately, however, it should be noted that a few individuals used that opportunity to voice specific and credible threats against air tour operators and their operations. FAA security personnel passed that information along to the FBI for follow up and have worked on? more recent threatening messages received by FAA employees in the Honolulu FSDO. The safety of our FAA personnel is paramount, and is going to be a continuing concern for community engagement on this matter.

We look forward to collaborating with you and your office on commercial air tour issues in Hawaii.

Page. 4

If you have any questions regarding this letter, please contact Mr. Keith Lusk at your earliest opportunity at (424) 405-7017 or at keith.lusk@faa.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Raquel Girvin". The signature is written in black ink and is positioned above the printed name and title.

Raquel Girvin
Regional Administrator

ED CASE

1ST DISTRICT, HAWAII

2443 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
TELEPHONE: 202-225-2726
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1132 BISHOP STREET, SUITE 1910
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Congress of the United States
House of Representatives
Washington, DC 20515-1101

COMMITTEE ON APPROPRIATIONS

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MILITARY CONSTRUCTION, VETERANS AFFAIRS AND
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WATER, OCEANS AND WILDLIFE

INDIGENOUS PEOPLES OF THE UNITED STATES

October 8, 2019

Mr. Cade Clark
Vice President of Government Affairs
1920 Ballenger Ave
Alexandria, VA 22314-6818

Dear Mr. Clark:

Thank you for your letter inviting me to attend the Hawai'i Air Tour Information Forum on October 28, 2019 to discuss air tour regulations and guidelines and provide an update on local Hawai'i air tours.

As you know, air tour safety and community disruption concerns have increased rapidly across Hawai'i, prompting many elected officials to call for substantially increased regulation in both areas. I fully share these concerns and have acted on them in part through introduction in Congress of H.R. 4547, my Safe and Quiet Skies Act.

One major concern of the broader community, which I also share, is that community concerns with current air tour operations have been effectively excluded from discussions between the industry and applicable federal and state officials over such concerns and operations. One example is the Federal Aviation Administration's position, apparently supported by the Hawai'i Helicopter Association, that development of an updated Hawai'i Air Tour Common Procedures Manual, which is virtually the only guidance to such operations, is proprietary and not a discussion open to the public.

Please understand that I do not agree with these or any further attempts to exclude broader public concerns and input from discussion of Hawai'i air tour operations. In that regard, I understand you have invited the FAA and the Hawai'i Helicopter Association to your October 28th event. Could you provide me with the full list of invitees and an explanation of your rationale for any exclusions.

I look forward to hearing back from you soon. Thank you again.

With aloha,

Ed Case
Congressman Ed Case
Hawai'i-First District

ED CASE
1ST DISTRICT, HAWAII

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WATER, OCEANS AND WILDLIFE
INDIGENOUS PEOPLES OF THE UNITED STATES

October 28, 2019

Helicopter Association International
ATTN: Cade Clark
1920 Ballenger Avenue
Alexandria, VA 22314-2898

Re: Enhanced Safety and Community Disruption Regulation of Commercial Helicopter
Operations

Dear Mr. Clark:

Thank you again for your October 4, 2019 invitation to your Hawaii Air Tour Informational Forum today, October 28th. I regret that I am in Congress today, but have asked my Hawaii staff to attend, read and distribute these comments and otherwise participate.

At the outset, I repeat the concerns I expressed in my October 8, 2019 letter to you (copy attached) that “community concerns with current air tour operations have been effectively excluded from discussions between the industry and applicable federal and state officials over such concerns and operations.” I used as one example the position of the Federal Aviation Administration (FAA), apparently concurred in by the Hawaii Helicopter Association (HHA), that development of an updated Hawaii Air Tour Common Procedures manual was proprietary and not open to the public.

I stated that “I do not agree with these or any further attempts to exclude broader public concerns and input from discussion of Hawaii air tour operations”, to include this Forum. You responded on October 10th (copy attached) that the Forum is to “facilitate a constructive, preliminary discussion that leads to enhanced communication and cooperation between Hawaii’s helicopter tour operators, government officials and the community.” I take you at your word for now, but please understand that I cannot accept any further attempt to minimize public participation and control the discussion.

Second, please understand that the Hawaii helicopter and small aircraft commercial tour industry and HHA are not today viewed with any credibility with respect to widespread and growing safety and community disruption concerns. The general community view, which I share, is that the industry is completely insensitive to such concerns, has simply gone through the public relations motions in pretending to care, and fundamentally believes that it is entitled to fly whenever, wherever and however it wants without regard to ground risks and impacts.

As just a few examples:

- (1) Members of the industry have maintained, and may still maintain, that these concerns are isolated and not widespread. In my own experience directly representing half the state and indirectly the other half, that is false. Further, on Oahu the City Council and to date over half the Neighborhood Boards have passed resolutions expressing concerns, and similar resolutions are under consideration in other counties.
- (2) Members of the industry have maintained, and still maintain, that tour operations are fully compliant with the minimal altitude, flight path and hours of operation understandings now in place. That is patently false as operations routinely violate these understandings in plain sight, and it is outright arrogant for the industry to deny it.
- (3) Members of the industry have maintained, and may still maintain, that tour operations and attendant safety risks and community disruption impacts are just part of being a tourist economy. I fully reject that view and further, as one policymaker, am fully prepared to reduce any benefits of such operations to our visitor economy in order to address the safety risk and widespread community disruption burdens.

Third, I appreciate FAA's participation in this event and willingness to contribute to the community dialogue. However, please understand that in my understanding FAA believes its mission is exclusively safety and efficient use of the nation's airspace, and ultimately does not believe that it has the authority to regulate for community disruption or, if it has such authority, does not want to exercise it. If that is incorrect then FAA should clarify the point and I believe the discussion should be to what extent FAA will regulate. But if that is correct then there are only three options: (1) the industry agrees to substantially reduced operations to address community concerns together with enforcement mechanisms; (2) the relevant laws and regulations are changed to impose such regulation on the industry; or (3) the community continues to be subject to widespread and accelerating safety risks and community disruption at the will of the industry and the non-involvement of the FAA. I cannot accept the third.

If your industry genuinely wants to find a mutually acceptable solution short of having one imposed on it, then you must start by (a) fully acknowledging without reservation your negative impacts on communities throughout Hawai'i and the legitimate concerns of those community, and (b) accepting that you must impose substantial limitations on your operations to substantially mitigate those concerns. In that event I am prepared to continue to work with you in good faith with the full inclusion of the broad community.

Sincerely,



Enclosure(s)

From: Cade Clark <cade.clark@rotor.com>
Sent: Thursday, October 10, 2019 6:11 PM
To: Case, Ed <Ed.Case@mail.house.gov>
Cc: tailrotor@aol.com
Subject: RE: A Message From Congressman Ed Case

Dear Congressman Case:

Thank you for your letter regarding the Helicopter Association International (HAI) Hawaii Air Tour Informational Forum on October 28, 2019.

HAI's primary objective in hosting this event is to facilitate a constructive, preliminary discussion that leads to enhanced communication and cooperation between Hawaii's helicopter tour operators, government officials and the community. As a first step, we aim to identify chief concerns, including those you addressed in your letter, and to set the framework for future meetings and dialogue to occur within the broader community. For this initial meeting, invites were extended to members of the Hawaii delegation at the federal, state, and local level.

HAI shares your sentiment on the importance of community participation and looks forward to establishing a framework that allows for all affected parties to be heard.

We hope to see you at the meeting on October 28.

Sincerely,

Cade Clark

Cade Clark
Vice President of Government Affairs
Helicopter Association International | Keep the Rotors Turning
1920 Ballenger Ave., Alexandria, VA 22314-2898
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