

O‘ahu Tour Helicopter Safety and Noise Inter-Action Group

December 30, 2020

Aloha Co-Chairs Fuchigami and Tamoria:

Hawai‘i’s significantly affected and impacted communities appreciate that you have recently convened public meetings for the industry-centric Hawai‘i Air Noise and Safety Task Force (HANSTF) to hear and acknowledge the public’s exponential distress triggered by the continuous uncontrolled tour helicopter activity throughout out the State.

After a long and extended silence, there may be some hope for a shared dialog that should lead to required remedies for the tour helicopter pandemic that has beset Hawai‘i’s peaceful Islands, culminating in crashes, emergencies and public outcry during 2019 and into 2020.¹

Having known and collaborated with Co-Chair Fuchigami for several years, I am hopeful that the strength of his leadership and perceptive abilities will lead to collaborative resolution of the continuing irresponsible aeronautics that fly in the face of the larger public interest.² And having met with Co-Chair Tamoria in September 2019 at a joint meeting called by State DOT Director Butay for our representatives together with Airports Deputy Director Higashi, Acting General Aviation Officer Fujita, Airports Operations Officer Tamoria, Airports Head Planner Tuiolosega and others, we are hopeful that Co-Chair Tamoria’s collaborative abilities will ensure that the acutely affected and impacted Hawai‘i community will be heard, respected and represented at the table.

However, although we were assured that this would happen within two (2) month’s time from September 2019, this effort has barely begun. We therefore respectfully request your reply and clarifications relating to the following:

Open Questions Relating to Organization and Credibility

- Please define the determined a) objectives of the Task Force, and b) the specific goals and benchmarks within the c) specified timeline to be met by the Task Force.
- Please confirm that the Task Force, which is presently weighted with industry interests, will be soon *equally balanced* with knowledgeable community representatives from each County, as provided by consensus of each County’s affected and impacted communities. Notably, the significant tour helicopter safety and noise issues are shared by all Counties within the State.
- Recognizing that to date the Task Force has limited their focused O‘ahu meetings to Pearl City and Kailua, and appears to accept only “remarks on the geographic area of focus of each meeting,”³ please provide the earliest date for the Task Force to complete the initial hearing process by convening a third meeting to respectfully include O‘ahu’s remaining communities, inclusive of Ala Moana, Waikiki, Diamond Head, Kahala, Waiala‘e, ‘Aina Haina, Hawai‘i Kai and Waimanalo. Was it the Task Force co-chairs’ intent to preclude this large and significantly affected region of O‘ahu as possibly advised by the industry-centric “executive committee”?⁴

¹ See Crash and Emergency statistics below and **Exhibit B1** - Community District Board Resolutions

² See **Exhibit B2** - O‘ahu Petition to Stop the Chopper Madness

Exhibit B3 - Public Poll: 82% for Tighter Controls

³ Note <https://hanstf.org/index.php/public-comments-for-kailua-oahu-focused-virtual-public-meeting/> “Please focus remarks on the geographic area of focus of each (Pearl City and Kailua) meeting.”

⁴ Note <https://hanstf.org/> and <https://hanstf.org/index.php/organization-role/>

Field Observations, Flight Screenshots and Additional Data

It is common knowledge that tour helicopters in Hawai'i operate in uncontrolled air space, with loosely-drawn flight paths periodically submitted to the HDOT Airports Division. It is also common knowledge that tour helicopters do not abide by protective Hawaii-specific Part 136 regulations,⁵ and instead use Part 91 general operations regulations as their chosen operative to fly wherever, whenever, and however they want.⁶

Thus with the absence of FAA cooperation and collaboration with the community at the local level, the State and the Counties must impose requirements for the protection of the public safety and health of those on the ground,⁷ as was notably accomplished by the State and Counties under the Tier 1 COVID restrictions.⁸

Yet despite this State mandate, tour helicopters with their pilot-to-passenger shoulder-to-shoulder seating continued to fly whenever, however and wherever they chose, as evidenced by the attached screenshots.⁹

Crashes and Emergencies

In 2016 a fatal tour helicopter crash occurred in Pearl Harbor near the USS Arizona memorial and the Pearl Harbor nuclear submarine base, and the following commercial helicopter crashes and emergencies have occurred in Hawai'i since September 2018:

- September 18, 2018 - Novictor Robinson-44 crash in Wahiawa, O'ahu;
- October 22, 2018 - Novictor Robinson-44 crash at Kaneohe Bay recreational sand bar;
- February 21, 2019 - K&S "Paradise" Hughes-369E crash in Waipio Valley, Hawai'i Island;
- April 16, 2019 - K&S "Paradise" Hughes-369E in Sacred Falls State Park, O'ahu;
- April 29, 2019 - Novictor Robinson-44 crash with 3 fatalities on a Kailua town street;¹⁰
- May 21, 2019 - Schuman "Magnum" Hughes-369D emergency landing in Diamond Head National Natural Landmark and State Historic Monument crater park with 3,300 daily visitors;
- December 26, 2019 - Safari Eurocopter-AS350 crash with 7 fatalities on a Kauai cliff face near the Na Pali Coast;
- March 5, 2020 – Blue Hawaiian Eurocopter 130 hard landing in Puna, Hawai'i Island.

Conclusion: Hawai'i can no longer risk tour helicopters crashing and burning in Hawai'i's communities and neighborhoods or within protected natural reserves and coastal nuclear defense areas.

⁵ See **Exhibit A1** – FAA Federal Aviation Regulations FAR 14 CFR part 136, Appendix A

⁶ See **Exhibit C3** – Uncontrolled Airspace Impacts "Hall of Shame"

⁷ *Section 4. Public Health Accommodations in General. "The Administrator of the Federal Aviation Administration shall allow the States . . . to implement reasonable guidelines and restrictions to ensure the public health and safety of air passengers and the public.* (Emphasis added.)

⁸ See **Exhibit D1** – COVID Tier 1 Mandate

⁹ See **Exhibit D2** – COVID Tier 1 Flying Petri Dishes

¹⁰ See **Exhibit B4** – Kailua Crash Updates

Essential First-Step Remedies and Solutions

Essential first-step remedies and solutions now deemed necessary to immediately implement for the safety, health and welfare of the affected and impacted larger public must include, but not be limited to, the following:

- Requiring that tour helicopters stay at least one mile offshore of Island communities;
- Establishing the HNL web site, database and N-Number-specific app in lieu of the FlightRadar 24 app for accurate public identification and reporting of tour aircraft and the accurate recording of violations to be acted upon;
- Upgrading HNL ground permits with ground safety and community protection requirements to include:
 - Tour helicopter flight paths specifically defined and restricted within safety and noise protection zones to protect the safety and health of those on the ground;
 - Installed tour helicopter safety devices including both helicopter flotation equipment and personal flotation devices;
 - Certified Instrument Flight Rules (IFR) equipment and proof of pilot IFR certification for flying in sudden inclement weather;
- Ensuring that a) the HNL Air Traffic Control (ATC) Manager provides ATC-assisted oversight of the "uncontrolled" airspace used by tour aircraft below ATC-controlled Class B airspace and that b) the HNL Flight Standards office promptly records, responds to and investigates complaints, cites and cures violations, and enforces Hawaii-specific regulations.

Justifications

State and County government has the discretion and responsibility in the larger public interest to address and act upon concerns surrounding tour aircraft noise impacts. The State Department of Transportation, as State airports owner and proprietor, must work collaboratively in concert with the affected and impacted larger community as well as the Regional FAA Administrator and Hawai'i ATC Managers to recognize, address and resolve the continued significant concerns that have been clearly and repeatedly expressed by Hawai'i's island communities throughout the State.¹¹

The escalating State-wide concerns and significant community complaints had only a brief hiatus during the 2020 virus pandemic lockdowns and Tier 1 protective mandate. Nonetheless, tour helicopter operators flaunted the public mandate¹² as they have continued to flaunt the Hawaii-specific tour helicopter regulations, FAR 14 CFR part 136, Appendix A¹³ as both the FAA and State Airports Division have looked the other way.

The cumulative tour helicopter noise impacts must be eliminated by the effectively determined distance maintained equally away from populated communities with residential neighborhoods, schools, parks and beaches; Hawai'ian cultural grounds and places of worship; and designated protected species preserves and habitats. Needless to add, the protection of these areas from tour helicopter crash impacts is equally paramount.

¹¹ See **Exhibit B5** - Pilot's Letter and **Exhibit B6** – Two Clear Testimonies

¹² See **Exhibit D1** - COVID Tier 1 Mandate and **Exhibit D2** - COVID Tier 1 Flying Petri Dishes

¹³ See **Exhibit A1** - FAA Federal Aviation Regulations FAR 14 CFR part 136, Appendix A

Significant Adverse Consequences

The most egregious tour helicopter operators cause the Hawai'i tour helicopter industry in general to be recognized as abysmal corporate citizens causing daily and hourly impacts 10/7/365 on the quality of life for Hawai'i's tax-paying citizens. Escalating loud noise impacts of low-flying tour helicopters cause jarring, intrusive, incessant and exhausting disruptions and unbearable living conditions for thousands of Island residents, and the continuing significant adverse effects constitute helicopter harassment that places the health and well-being of entire communities at stake.

Uncontrolled Flight Paths and Cumulative Noise Pollution

Hawai'i tour helicopter operators with their uncontrolled flight paths have drastically increased noise impacts on Hawai'i's established communities below. Expanding tour helicopter fleets and increased numbers of flights by tour operators with so-called quieter technology as well as by tour helicopter operators with sub-standard equipment and noxious sound levels, in violation of Hawaii-specific air tour regulations and local noise decibel level laws, will continue to be responsible for a massive increase in cumulative tour helicopter noise impacts if not controlled.

There Must be Accountability to Effect Change

Tour helicopter flight paths must be required to be directed away from O'ahu's shoreline communities, State and local parks and established neighborhoods. The random activities of commercial tour helicopter operators are out of control and wholly unacceptable. Entire communities have been placed at risk. To be effective in protecting the public health and welfare in the greater public interest, the State must directly address and cure tour helicopter noise and environmental impacts. Clearly the State must take bold steps, including but not limited to the following:

- The minimum flight distance and altitude requirements must be increased to ensure elimination of tour helicopter noise impacts on the ground within and around populated and protected areas;
- Flight paths and flight patterns must be controlled and monitored, with the flight distance from natural land forms, recreational shorelines and populous communities mandated.
- The total overall noise level must be reduced to 40 decibels as independently measured with regular certified inspections and instruments calibrated for this purpose.
- Clearly the continuing unabashed conduct of Hawai'i tour helicopter operators warrants independent monitoring, control and enforcement with tiered penalties tied to the number of violations, and revocation of licenses for continuing violations.

The State and Counties specify sound levels in the vicinity of populated areas such as O'ahu's shoreline communities, and conservation districts and visitor attractions such as the Diamond Head State Monument. The same considerations and respect must be applied to Punchbowl Crater's Memorial Cemetery of the Pacific and to the Pearl Harbor Memorial complex.¹⁴

Traditionally-quiet neighborhoods, visitor attractions, and critical environmental habitats are undergoing significant adverse impacts from the noise generated by close- and low-flying tour helicopters. Flight altitudes and distances must be defined and enforced by controls with exceptions for flight conditions only, and flight paths must avoid residential communities.

¹⁴ See **Exhibit C1** – Flight Radar 24 O'ahu Screenshots and **Exhibit C2** – December 28-30, 2020 Screenshots

Both New York Long Island regulatory controls and San Francisco Bay Area local controls can be used as prime examples.

Conclusion

Given the serious considerations above, we look forward to the Hawai'i Air Noise and Safety Task Force becoming a respected and credible standard-bearer balanced with community-based representation in the larger public interest.¹⁵ With outcomes requiring success in producing essential rules and regulations to rein in Hawai'i's presently renegade tour helicopter industry, Hawai'i tour helicopter operators must be lead to respect and abide by the safety, health and welfare of Hawai'i's people.

Hawaii's safety, health and right to peaceful lives is paramount.

Most sincerely,

Michelle S. Matson, Chairperson
O'ahu Tour Helicopter Safety and Noise Inter-Action Group,
Affiliate Member of Quiet Skies Honolulu

Attachments:

Exhibit A1 – FAA FAR Part 136 Appendix A

Exhibit B1 – Resolutions Adopted by
O'ahu District Community Boards

- Ala Moana-Kaka'ako
- Waikiki
- Diamond Head
- Kaimuki
- Waialae-Kahala
- Kouli'ou'ou-Waiale Iki
- Hawaii Kai
- Waimanalo
- Kailua
- Kaneohe
- Nanakuli-Maile
- 'Ewa
- Pearl City
- Waipahu
- Aliamanu-Salt Lake-Foster Village

Exhibit B3 – Public Poll: 82% for Tighter Controls
Exhibit B4 - Kailua Crash Updates
Exhibit B5 – Pilot's Letter
Exhibit B6 – Two Clear Testimonies

Exhibit C1 – Flight Radar 24 O'ahu Screenshots
Exhibit C2 – December 28-30, 2020 Screenshots
Exhibit C3 – Uncontrolled Airspace Impacts
O'ahu "Hall of Shame" Screenshots

Exhibit D1 – COVID Tier 1 Mandate
Exhibit D2 – COVID Tier 1 Flying Petri Dishes

Exhibit B2 – Petition: Stop the Chopper Madness

¹⁵ See **Exhibit B1** - O'ahu Community District Board Resolutions
Exhibit B2 - Petition: Stop the Tour Chopper Madness
Exhibit B3 - Public Poll: 82% for Tighter Controls